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Ontario

ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 71

DATE: Tuesday, February 14th, 1989

BEFORE: M.I. JEFFERY, Q.C., Chairman

E. MARTEL, Member

A. KOVEN, Member



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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -


IN THE MATTER of an Order-in-Council
(O.C. 2449/87) authorizing the
Environmental Assessment Board to
administer a funding program, in
connection with the environmental
assessment hearing with respect to the
Timber Management Class
Environmental Assessment, and to
distribute funds to qualified
participants.

Hearing held at the Ramada Prince Arthur
Hotel, 17 North Cumberland St., Thunder
Bay, Ontario, on Tuesday, February 14th,
1989, commencing at 9:30 a.m.

VOLUME 71

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member



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413	Outline of course provided in response to MOE Question No. 10.	12002

1 ----Upon commencing at 9:05 a.m.

2 THE CHAIRMAN: Good morning, everyone.
3 Please be seated.

4 Ms. Seaborn?

5 MS. SEABORN: Good morning, Mr. Chairman.

6 THE CHAIRMAN: Good morning.

7 WILLIAM JOHN STRAIGHT,
8 R. DAVID SCOTT,
PETER J. McNAMEE, Resumed

9 CONTINUED CROSS-EXAMINATION BY MS. SEABORN:

10 Q. Mr. Straight, I want to begin this
11 morning by dealing briefly with the fish habitat
12 guidelines. You were present, were you not, during Mr.
13 Ward's testimony during Panel 7?

14 MR. STRAIGHT: A. I was present during
15 part of his testimony. I did miss some of it, I
16 believe some of Mr. Williams'.

17 Q. Were you present for Mr. Campbell's
18 cross-examination?

19 A. I believe I was.

20 Q. And Mr. Ward was the expert witness
21 put forward by MNR with respect to the fish habitat
22 guidelines; is that correct?

23 A. I believe the guidelines were
24 introduced in that particular panel.

25 Q. And there were a number of questions

1 about those guidelines during that panel?

2 A. Yes, there were.

3 Q. And you'll recall that Mr. Cosman
4 asked you some questions with respect to the
5 guidelines?

6 A. Yes, he did.

7 Q. Now, in your answers to Mr. Cosman,
8 did you intend to correct or disagree in any way with
9 Mr. Ward's testimony?

10 A. I did not intend to do that.

11 Q. And should any of your answers to Mr.
12 Cosman be taken as changing any of Mr. Ward's
13 testimony?

14 A. Without recalling all of the details
15 of what Mr. Ward said, my recollection is, is that I
16 was generally in agreement with what he said.

17 Q. Thank you. Do you have the
18 transcript in front of you from Tuesday, January 31st?

19 A. Yes, I do.

20 Q. Volume 64?

21 A. Yes.

22 Q. If you could just turn to page 10794
23 of that transcript.

24 MR. FREIDIN: What page is that again?

25 MS. SEABORN: Page 10794.

1 MR. STRAIGHT: Yes, I have it.

2 MS. SEABORN: Q. And you will see at
3 line 16 Mr. Cosman was asking Mr. Scott a question
4 about the guidelines. And Mr. Cosman asked Mr. Scott:

5 "Do you agree that guidelines should be
6 flexible because of the necessity of
7 the Ministry of Natural Resource
8 managers exercising and applying judgment
9 in making their decisions?"

10 MR. STRAIGHT: A. Yes, I see that.

11 Q. And at the bottom of that page and
12 following Mr. Scott answered that question and maybe
13 you could just quickly review Mr. Scott's answer.

14 A. I believe in Mr. Scott's response
15 there he is speaking generally in the sense that
16 guidelines do have flexibility attached to them. He
17 also refers to the need to stick closely to the
18 guidelines themselves in certain instances.

19 And I think what happens is that we tend
20 to go from a general description, in some cases, to
21 very specific in others, and I think in responding to a
22 number of interrogatories and in dealing with that
23 question and generally there are a number of -- there
24 is a difference in the directions that Ministry applies
25 relating to each of the specific guidelines.

1 Those that are most flexible, or at least
2 flexible are the directions that apply essentially to
3 the Timber Management Guidelines to Protect Fish
4 Habitat, while perhaps in terms of provincial direction
5 and guidelines at the other end of the scale, the
6 Silvicultural Guides and the Guidelines to Protect
7 Tourism Value, would perhaps be described as those
8 offering the most flexibility.

9 And I believe in Mr. Scott's comments you
10 will see that there is reference to the need for
11 consistency, but also to a need for flexibility and I
12 think it is the fact that we try and deal generally
13 with them and really you almost have to speak to each
14 specific guideline situation when you deal with it.

15 Q. Okay. If you look at page 10795,
16 line 4, Mr. Scott says:

17 "So my approach is always to stick fairly
18 closely to the guidelines. In fact,
19 almost always within. There may be
20 occasions where we want to deviate, in
21 which case we would flag that to the
22 district manager or regional director,
23 et cetera, for approval. So, yes,
24 guidelines should be flexible and the
25 word guidelines is truly that by

1 definition, but I think we should
2 stick to them fairly closely."

3 Now, would you agree with that statement?

4 A. Again, I guess I would be somewhat
5 specific. I have no problems agreeing with that in a
6 general context.

7 Q. Well, Mr. Scott, I am asking you --
8 or, Mr. Straight, I am asking you specifically because
9 the question is only on the fish habitat guidelines?

10 A. Only on the fish, okay.

11 Q. Yes. So I just want you to direct
12 your mind to those guidelines. And in the context of
13 those guidelines, would you agree with the answer that
14 Mr. Scott gave Mr. Cosman?

15 A. I would change the emphasis somewhat.
16 I would say that the guidelines are followed, are meant
17 to be followed. I would also agree though that if
18 individuals were going to be make exceptions for valid
19 reasons that they would make that recommendation to the
20 regional director.

21 Q. Well, then you don't disagree then
22 when Mr. Scott says:

23 "There may be occasions where we want to
24 deviate, in which case we would flag that
25 to the district manager or regional

1 director."

2 You don't disagree with that?

3 A. No, I don't disagree with that
4 concept.

5 Q. Thank you. Mr. Straight, I just want
6 to ask you a few questions with respect to the status
7 of the provincial guidelines. When were the moose,
8 fish habitat and tourism guidelines issued to the field
9 for use at the management unit level?

10 A. There has been -- there will be some
11 difficulty in describing that in the sense that they
12 have been available in various forms for some period of
13 time.

14 My understanding that the actual formal
15 approval by the Deputy Minister for both the fish and
16 and the moose guidelines occurred just this past
17 spring/summer, within that period. The tourism
18 guidelines were approved somewhat earlier and I would
19 have to look at the date of the document to be certain,
20 but I believe it is probably about a year and a half or
21 so.

22 Q. Well, let's just start with the fish
23 habitat guidelines. They were filed as part of the
24 panel -- along with the Panel 8 witness statement and
25 on the outside cover of those guidelines it says April,

1 1988?

2 A. That's correct.

3 Q. Can I take it then that they would
4 have been issued to the field some time after that
5 date?

6 A. They would have been formally issued
7 as a document with the Deputy Ministry's approval on
8 that document at or after that time. There were indeed
9 working copies of those guidelines available to the
10 field prior to that with the intention of the Ministry
11 that those guidelines be followed, recognizing there
12 may be some final revisions as would have appeared in
13 this document of April, '88.

14 Q. With respect to the fish habitat
15 guidelines, you said the working copies could have been
16 available prior to the final guidelines being approved
17 by the regional director and Deputy Minister?

18 A. By the Deputy Minister, that's
19 correct.

20 Q. And subsequent to the Deputy
21 approving the guidelines, a policy was issued; was it
22 not, with respect to application of the guidelines?

23 A. There would have been a branch
24 director's policy that had accompanied the guidelines
25 prior to that time.

1 Q. Now, the moose guidelines were
2 finalized in February, 1988; correct?

3 A. Is that the date on that particular
4 document?

5 Q. That's the date I have got on the
6 cover.

7 A. That, again, would be the date upon
8 which there was a formal publishing of those documents.

9 Q. In terms of use at the field level,
10 would they have been issued to anyone in the field
11 prior to the date they were approved by the Deputy
12 Minister?

13 A. There have been various forms of
14 those particular guidelines in existence since I
15 believe somewhere around 1978 under branch director's
16 direction at that particular point in time.

17 Q. And I understand the tourism
18 guidelines were issued in 1986?

19 A. I believe that to be the case, yes.

20 Q. Now, with respect to the three
21 provincial guidelines, are there currently training
22 courses in place for unit foresters to teach them how
23 to use these guidelines in making timber management
24 decisions?

25 A. I believe we referred in our

1 evidence-in-chief to introducing those particular
2 guidelines during the timber management planning
3 training sessions themselves.

4 We also raised the issue of the need for
5 provincial coordination and training of those -- of
6 staff to use those particular documents and had
7 indicated that Mr. John Kendrick was currently
8 developing that particular program.

9 Q. So given that the approved versions
10 of these guidelines are relatively new -- you would
11 accept that, wouldn't you?

12 A. Yes.

13 Q. Then any training with respect to the
14 use of these guidelines would be encompassed by timber
15 management planning courses?

16 A. I think you will find that it will
17 take two avenues without -- and I am speculating here
18 to some degree on what Mr. Kendrick will be
19 recommending as a result of his review of the need for
20 training and provincial coordination.

21 I expect though that you will see that
22 we will continue to provide training during the timber
23 management planning sessions themselves. I also
24 suspect that you will see elements of the application
25 of the guidelines that will receive very specialized

1 professional and technical direction within each of the
2 professions of fish and wildlife biology, for example.

3 And I thoroughly expect that they may
4 well be doing some training on their own, perhaps even
5 incorporating some of the training aspects into our
6 existing fish and wildlife certificate courses, that
7 sort of thing, which we mentioned in evidence-in-chief.

8 Q. But with respect to where we are
9 today, vis-a-vis training of these three guidelines,
10 there is nothing in place at the moment with respect to
11 courses where you are just dealing with these three
12 provincial guidelines?

13 A. The timber management planning
14 training session is in place right now. Beyond that,
15 there is no specific course that deals exclusively with
16 this subject material.

17 Q. Thank you. Again, not dealing with
18 any drafts of these three provincial guidelines but
19 looking at the approved version, have any timber
20 management plans been prepared to date utilizing these
21 three provincial guidelines?

22 A. I would say there are some that have
23 been prepared to date using those guidelines, and it is
24 my understanding that generally the spirit of those
25 guidelines should be reflected in timber management

1 plans that have occurred in the last couple of years.

2 Q. Could you provide us with a list of
3 timber management plans that have been prepared using
4 the three guidelines?

5 I take it they would have to be plans.
6 For example, the fish habitat guidelines were prepared
7 in April, '88, so it would have to be a plan that was
8 prepared within the last ten months, for example?

9 THE CHAIRMAN: Is that possible, Mr.
10 Straight?

11 MR. STRAIGHT: I was just waiting for Ms.
12 Seaborn.

13 Within my experience in the northwestern
14 region, I am not aware of any specific plan that we
15 have actually -- oh, sorry, there is one, there is one.
16 I could certainly look at the plans within my area of
17 responsibility, if you would, and be prepared to give
18 you that list.

19 The fish guidelines are perhaps the ones
20 which are most -- which one could expect to see more of
21 a difference in the sense that the final guideline
22 package themselves, if you were, were reviewed
23 extensively with Ministry of the Environment and there
24 were some very specific changes in terms of the types
25 of water bodies and the specific direction applied to

1 protect water quality, for example.

2 So I don't expect that you would
3 necessarily see a lot of plans right today that would
4 deal with the range of details that those guidelines
5 now contain, particularly when you recognize the need,
6 to some degree, to phase these guidelines into the
7 planning process themselves.

8 A company or a Ministry person who is
9 three quarters of the way or so through the planning
10 process may find it very difficult to change a lot of
11 things at that particular point in time.

12 So I suspect the fisheries ones are the
13 ones where you may have the most difficulty seeing a
14 current plan which totally reflects all of the contents
15 of those guidelines.

16 In my experience, the moose guidelines,
17 for example, have been out in a working copy earlier
18 than the fisheries ones without the same amount of
19 changes and I would feel more comfortable that I could
20 show you a plan that dealt with the moose guidelines.

21 MS. SEABORN: Q. Well, that would be
22 helpful. What I am really looking for is whether there
23 are any plans that would have been prepared, quite
24 recently I would assume, that deal with all three
25 guidelines and, if such -- I am not asking for any

1 answer today, but perhaps in the form of an
2 undertaking, if any plans exist we would like to know
3 the name of those plans.

4 It could be within your region or another
5 region, somewhere within the area of the undertaking.
6 If there isn't a plan that has been prepared using
7 those three guidelines, then that answer would be
8 helpful as well. So I don't want you to speculate too
9 much.

10 MR. STRAIGHT: A. Okay. I will follow
11 that up then. And that is an example of a plan which
12 would contain not only examples, but which would have
13 utilized all three of the guidelines in its
14 development?

15 Q. Sir, one step further than an
16 example. I would like to know the names of any plans
17 that have been prepared using all three guidelines.

18 A. All three, okay.

19 MR FREIDIN: That would be the three
20 guidelines as approved?

21 MS. SEABORN: Yes, as approved.

22 Q. Mr. Straight, with respect to the
23 construction and operational manuals, I believe in the
24 evidence there were five that were identified?

25 MR. STRAIGHT: A. That's correct.

1 Q. Could you tell me when the Resource
2 Access Roads Policy and Implementation Strategies was
3 issued to the field for use at the management unit
4 level?

5 A. I don't have that particular document
6 with me at the moment to be able to give you that exact
7 date. It may be of -- okay. The date on the --
8 covering the introduction of those particular
9 strategies and guidelines was September 24th, 1985.

10 Q. And the index to that document is
11 contained in your witness statement; correct?

12 A. That's correct.

13 Q. Now, would that document have been
14 issued to the field at the same time as it was prepared
15 or would there be a significant lag time?

16 A. I can't speak with certainty, but I
17 would generally assume that it would be available in
18 about that time.

19 Q. Well, let me go back then and ask you
20 a general question of what your ministerial procedures
21 are. With respect to the operational manuals, can we
22 take it that after they are prepared and approved, at
23 that point they are automatically issued to district
24 staff for use at the field level?

25 A. I believe that to be a valid

1 assumption, yes.

2 Q. Okay. With respect to the
3 construction and operational manuals, would there be
4 training courses that the unit forester would take to
5 guide them as to how to use these manuals in timber
6 management planning?

7 A. I can't speak specifically to whether
8 there were training programs associated with the
9 introduction of that particular document or not. You
10 mentioned the unit forester. The document extends to
11 many individuals on staff beyond the unit forester
12 themselves.

13 Q. And that would be the members of your
14 interdisciplinary planning team?

15 A. Yes. And in many cases for that
16 particular document, in terms of dealing with resource
17 access roads, a number of different individuals in the
18 district would be involved in utilizing various parts
19 of that particular document.

20 And also that document as well tends to
21 be a compilation or a summarization of both new and
22 previous policies and directions which had existed
23 there and, in that sense, it is not all totally new.
24 So its introduction to staff would have occurred over
25 quite some period of time.

1 Q. Well, with respect to the
2 construction and operation manuals, would training for
3 use of these manuals again be encompassed by any timber
4 management planning training courses that the Ministry
5 sets up?

6 A. Now, you are referring to all of the
7 operational manuals?

8 Q. I am talking about the five
9 construction and operational manuals that you have
10 identified in the evidence.

11 A. My experience generally is, is that
12 they would receive those project-specific,
13 development-specific types of operational training
14 through an independent process, particularly, in my
15 experience, both the prescribed burn and the aerial
16 spraying have extensive -- very extensive training
17 programs associated with it.

18 Q. So with respect to the aerial
19 spraying and the prescribed burning, use of those
20 manuals, it could be a separate training program?

21 A. Most commonly it is, very separate
22 and a very specific and a very involved training
23 program.

24 Q. Okay. And would training programs
25 for those two manuals in particular be mandatory in the

1 sense that for each management unit someone in the
2 interdisciplinary team would have to be trained with
3 respect to the use of those manuals?

4 A. The staff that require that training
5 are very specifically identified, if that's what you
6 are saying, yes.

7 Q. And they would be identified on a
8 management unit-by-management unit basis?

9 A. They would be identified on a
10 district-by-district basis.

11 Q. So there is no requirement that a
12 specific person from each -- a specific person from
13 each management unit take a training course, for
14 example, on the prescribed burn manual?

15 A. Not necessarily a specific management
16 unit, but clearly the intent would be to have that
17 expertise available in the district for any specific
18 timber management unit.

19 Q. I just want to deal briefly, Mr.
20 Straight, with how a regional director would review a
21 timber management plan for compliance with the various
22 guidelines. Now, would a regional director ever read a
23 whole plan, and I mean all the supporting
24 documentation, the volumes that come with the plan?

25 A. Not normally.

1 Q. And I take it from your earlier
2 evidence that different pieces of the plan would be
3 reviewed by different members of the interdisciplinary
4 planning team?

5 A. My experience, generally speaking, I
6 ask different parties to review different sections. I
7 also ask our timber organization to be aware of and
8 review the entire document.

9 Q. For example, suppose you wanted a
10 plan to be reviewed to check for compliance with the
11 fish habitat guidelines and let's take, for example,
12 Mr. Ward was the person you wanted to review that plan,
13 would you send him the whole timber management plan?

14 A. Only those parts which he felt he
15 required to be able to do that job.

16 Q. How would he know what he required if
17 he hadn't seen the whole plan?

18 A. Well, Mr. Ward would know what he
19 required because he has had experience in developing
20 those plans and he is also aware of the process enough
21 to know what it is that he requires.

22 You don't -- well, yes. For example, in
23 Mr. Ward's case, he needs to know essentially what the
24 prescriptions around water bodies and streams, rivers
25 are to look at whether or not the guidelines have been

1 complied with.

2 He can go to an area of concern summary
3 at the back which deals with each particular AOC. He
4 also would -- he would explore on that summary the
5 recommendations for the final prescription and the
6 rationale. He would normally review the actual cutting
7 maps which showed prescriptions adjacent to water
8 bodies. Those would be two specific or key pieces of
9 information that he would need.

10 Q. So if you were farming out part of a
11 plan for review by your specialists, they would need to
12 see the cutting maps, the area of concern summary and,
13 in the case of looking at fish habitat, the
14 prescriptions around water bodies?

15 A. Those would be key elements, yes. He
16 may be interested in other parts of the plan, but I
17 would still see those as being the key elements he
18 would require.

19 Q. Just so that I have an understanding
20 about how the process works, would you have in most
21 instances a different specialist who would check a plan
22 for compliance with the moose guidelines versus the
23 fish habitat guidelines versus tourism?

24 A. In the context in which we administer
25 and approve plans in the northwest, we have different

1 individuals. But in doing that, I don't want to
2 suggest that that necessarily is the only way to go,
3 but that is the way that we have done it.

4 Q. So, in other words, you would send
5 out certain portions of the plan to Mr. Ward to look at
6 for fish habitat, different portions of the plan would
7 go to your expert on tourism?

8 A. My experience in the northwest,
9 again, we would ask Mr. Ward to review the plan which
10 is available in the regional office--

11 Q. Yes.

12 A. --for its compliance with the
13 fisheries guidelines. We ask a wildlife biologist to
14 review the plans for consistency with the moose
15 guidelines. We ask one of our planning specialists to
16 review the plan for public consultation, documentation,
17 objectives in the way in which that's dealt with, as
18 well as the tourism guidelines.

19 We ask our timber management planning
20 specialists to advise us on the entire process as to
21 whether or not the timber management manual objectives
22 have been met and are up to standard.

23 Q. And am I correct that the plans would
24 not be specifically reviewed for compliance with the
25 various resource environmental manuals because those

1 manuals are discretionary in the sense they don't fall
2 into the same category as the three provincial
3 guidelines?

4 A. We would be able to see at that
5 review period where those particular manuals have been
6 or may have been used. We would relate back to the
7 values map, if you will, that had been identified at
8 the front and we could -- and particularly insofar as
9 endangered species go, we are in a position to be able
10 to make those kinds of evaluations.

11 Q. So they would be reviewed with
12 respect to the resource manuals that deal with
13 endangered species specifically?

14 A. Yes.

15 Q. And with respect to the other
16 resource environmental manuals, I believe you told me
17 yesterday that once a value is identified, application
18 of those manuals is discretionary; correct?

19 A. I explained that it was
20 discretionary, but I also explained that we have
21 provided a summary of current understanding on the
22 habitat requirements of certain species and we would
23 generally, within the program, they would expect staff
24 at the district level to be using those documents. But
25 it is discretionary relative to the comparison of the

1 use of the provincial guidelines which is mandatory,
2 that's correct.

3 Q. I just want to ask one more question
4 on this area. If your wildlife biologist, for example,
5 was reviewing a portion of a timber management plan,
6 would he be able to tell from reading that plan where
7 an interdisciplinary team has chosen to use their
8 discretion in such a way as to deviate from a
9 guideline?

10 A. The nature of the guidelines, and you
11 are referring to the moose guidelines?

12 Q. Just as an example.

13 A. The nature of those guidelines is
14 such that he should be able to review the cutting
15 patterns, the cutting maps if you will, the eligible
16 stand and the prescriptions that come in and be able to
17 generate a reasonable sense by that whether or not the
18 guidelines are being applied.

19 Beyond that, in my experience, we have
20 also requested that where exceptions to the guidelines
21 are requested that they be identified as that and the
22 rationale incorporated as part of the area of concern
23 planning process.

24 Q. So that is something that you would
25 like to see in future plans with respect to these

1 guidelines. I believe that you just said that where --
2 you have requested that where there is deviation from
3 the guidelines, that the rationale for that deviation
4 be documented; correct?

5 A. Yes. That's correct.

6 Q. Okay.

7 MS. SEABORN: Excuse me. Mr. Chairman, a
8 moment.

9 Q. Just one more question on that point,
10 Mr. Straight.

11 For example, your wildlife biologist or
12 another specialist reviewing these plans, if they see
13 where a guideline has been deviated from, would they
14 make a list of that so that -- or make a note about
15 that so that when it came back to the regional director
16 the regional director would be made aware of that
17 deviation from a guideline?

18 A. The regional director would be made
19 aware. The process that we particularly utilize in the
20 northwest as well encourages the resolution of those
21 kind of issues, if you will, very early in the process,
22 at the draft plan stage or even before the draft plan
23 stage so that it doesn't become an issue at the time of
24 approval.

25 We encourage our timber management review

1 team, if you will, to establish a dialogue with the
2 district team preparing a plan or involved in preparing
3 a plan very early in the process.

4 MRS. KOVEN: Excuse me, Mr. Straight.
5 Does the regional director give a formal approval for a
6 deviation at that point?

7 MR. STRAIGHT: In the sense -- at that
8 point? Basically the regional director gives formal
9 approval when he approves the plan. He may give verbal
10 approval to something earlier in the process to allow
11 planning to continue in an acceptable manner. That is
12 an option that he could utilize, yes.

13 MRS. KOVEN: Is the regional director
14 ever a member of the timber management planning team?

15 MR. STRAIGHT: Not normally, no.

16 MS. SEABORN: Q. Do you have the moose
17 habitat guidelines with you?

18 MR. STRAIGHT: A. I believe I do.

19 Q. If you could just turn to page 2 and
20 it is page 2 in the Introduction, so it is (ii).

21 A. Yes, I have.

22 Q. Do you have that. And in the
23 right-hand corner it says Application of Guidelines.

24 A. Yes.

25 Q. I just wanted to be clear on the

1 process here. If we look at the last sentence under
2 Application of Guidelines it says:

3 "If a region intends to routinely
4 sanction deviation from the guidelines,
5 the assistant Deputy Minister's approval
6 must be obtained before approving the
7 plans."

8 A. I see it. Yes.

9 Q. And I take it that is the practice
10 that is now in effect with respect to these guidelines?

11 A. That would be my understanding.

12 Q. And, therefore, if there is going to
13 be deviation from the guidelines it would be necessary
14 with respect to all three guidelines for a regional
15 director to have a list or summary of what those
16 deviations were for each plan; is that not correct?

17 A. I believe the regional director would
18 want to be aware of those. Now, the need for a list is
19 something again that the regional director may not
20 necessarily need as long as he understands from his
21 specialists the degree or the nature of those
22 particular deviations and knows that they are
23 particularly identified within the timber management
24 plan itself.

25 Q. Well, I would think it would probably

1 be prudent for him to keep track, in whatever way suits
2 his needs, of what these deviations are given this
3 requirement that where -- if there is going to be
4 routine deviation you have to get approval from the
5 next level up.

6 A. And, in that sense, it would be
7 documented, yes.

8 Q. Thank you. Mr. Straight, I take it
9 from listening to your testimony that it is MNR's
10 position that application of these provincial
11 guidelines does not compromise the unit forester's
12 ability to exercise good professional judgment in
13 managing the forest. Would you agree with that?

14 A. Yes.

15 Q. And we have spent considerable time
16 with the description of the various tools that are
17 available to the district staff to assist them in
18 making decisions about timber management; correct?

19 A. Yes.

20 Q. And, as a general proposition, would
21 you agree that professionals may disagree on how to
22 exercise their professional judgment?

23 A. I believe at times that professionals
24 may have either real or apparent disagreements.

25 Q. And professionals who have the same

1 information base might very well reach a different
2 conclusion when they are making tradeoffs?

3 A. When they are making tradeoffs?

4 Q. Yes. If you have...

5 A. They may not make the tradeoffs
6 themselves. If you are -- I believe they could come to
7 different opinions, yes, in a general sense.

8 Q. And a large thrust of what we have
9 been talking about at this hearing is the fact that
10 making tradeoffs is a critically important part of
11 resource management decision-making. Would you agree
12 with that?

13 A. There certainly are times when
14 tradeoffs are required, yes.

15 Q. I wasn't clear from the evidence on
16 one point, Mr. Straight. Could you tell me: Are there
17 any guidelines for the management of timber values
18 beyond the silvicultural guides and the timber
19 management planning manual which may influence resource
20 management decision-making?

21 A. Would you repeat, that, please?

22 Q. Well, we have looked at a lot of the
23 manuals dealing with non-timber values and with respect
24 to timber values I have identified the five
25 silvicultural guides and the timber management planning

1 manual obviously deals with timber values.

2 I am wondering if there is anything else
3 that relates solely to timber values that should be
4 taken into account?

5 A. I believe what you are seeing in the
6 context of the Class Environmental Assessment
7 essentially deals with the range of directions that the
8 Ministry provides to dealing with management of timber
9 value.

10 Q. Well, I am not sure that answers my
11 question in the sense that -- all I want to know is if
12 I am missing anything with respect to timber values,
13 and if you want to check with someone and give me the
14 information in a written form at a later date that's
15 fine. I just want to be clear that we have all the
16 information with respect to timber values.

17 A. I believe you will get that through
18 the Class EA, in the sense that entire program, if you
19 will, the entire planning process is the subject of
20 this particular Class Environmental Assessment and you
21 will be hearing throughout all of the evidence the
22 direction and the range of direction that the Ministry
23 provides to deal with timber management planning.

24 Q. Well, no, I am not asking about
25 timber management planning, per se. What I am asking

1 about is, there are a number of implementation manuals,
2 tools that we have discussed during this panel, the
3 majority of them deal with non-timber values; moose,
4 fish, tourism.

5 What I am looking at is anything other
6 than the silvicultural guides and the timber management
7 planning manual that deals with timber values.

8 MR. FREIDIN: Mr. Chairman, I can advise
9 that we will undertake to provide a list of that
10 nature. Given again that it may be difficult to be all
11 inclusive, we will attempt to provide you with a copy.

12 THE CHAIRMAN: Thank you.

13 MS. SEABORN: That is helpful. Thank
14 you, Mr. Freidin.

15 Q. Mr. Straight, are you aware of the
16 status of the code of practice for timber operations in
17 riparian areas?

18 MR. STRAIGHT: A. I am generally
19 familiar with it.

20 Q. Do you know if that document has been
21 finalized?

22 A. I believe at this point it has not
23 been finalized. At least that was my awareness before
24 coming on the witness stand for this particular panel.

25 Q. Can you give me an indication of when

1 it will be available?

2 MR. FREIDIN: It went out in the mail
3 yesterday, Mr. Chairman. I am advised it is now final.

4 MS. SEABORN: Well, I can phone Mr.
5 Campbell and tell him to receive it on my behalf.

6 Thank you.

7 Q. Do you know, Mr. Straight, whether
8 any training programs are contemplated with respect to
9 use of that code of practice?

10 MR. STRAIGHT: A. I can't speak to that
11 at this particular point.

12 Q. Could you just turn to the ESSA
13 Report which is Exhibit 381. And, Mr. Straight, if you
14 could just turn to page 212, I just have a couple of
15 questions on this chart.

16 MR. STRAIGHT: A. Yes, I have it.

17 Q. If you look at the top of the chart
18 where it says: "Resource Protection Guidelines."

19 A. Yes.

20 Q. I take it that this refers to moose,
21 tourism, and fish; correct?

22 A. That's correct.

23 Q. And if we go down that column and we
24 see: yes, no, yes, et cetera. I could write in the
25 name of the guideline that you mean in the sense that

1 under No. 1 the resource value is streams, spawning
2 fish. So I assume that where it says yes, that means
3 the fish habitat guidelines?

4 A. There was -- with one qualification.
5 I believe that there was also reference to the
6 development of the guidelines to deal with access roads
7 and water crossings that would be utilized within that
8 context as well.

9 Q. Okay. Well, that comes to my
10 question.

11 MS. SEABORN: I think, Mr. Chairman,
12 there is some information I want about this chart and I
13 am just going to put it on the record because I think
14 it would be more useful if an answer was provided in
15 the form of an undertaking rather than going through
16 these columns and taking the Board's time here.

17 Q. Mr. Straight, what I would like to
18 know for the column under Resource Protection
19 Guidelines where it says yes is: Which guidelines were
20 contemplated by that yes?

21 MR. STRAIGHT: A. That has been
22 identified and is now part of the witness statement in
23 Panel 16 where those particular guidelines were
24 identified.

25 Q. So if I go to Panel 16 I will be able

1 to go down this list and identify which guideline
2 applies?

3 A. Yes, I hope you will find that
4 satisfactory, but that was the intent, was to expand on
5 that.

6 Q. Okay. And will I find the same
7 information in Panel 16 with respect to other
8 guidelines, again...

9 A. The other guidelines as well have
10 been identified, yes.

11 Q. And there are only a few places where
12 we see yeses under other guidelines, but I will find
13 that information in Panel 16?

14 A. Yes.

15 Q. Thank you. Mr. Straight, can you
16 give me any information as to when the deer guidelines
17 will be approved?

18 A. My own understanding is, is that --
19 and I would want to confirm that - but I can recall
20 seeing an interrogatory I believe which indicated that
21 they would be firmed up within a year. I would like to
22 confirm that for you, though.

23 Q. That is fine. Have any drafts of
24 those guidelines been issued to district staff for use
25 at the field level?

1 A. In terms of guidelines to provide
2 deer habitat?

3 Q. Yes.

4 A. Staff have been using, yes,
5 directions with regard to providing deer habitat for
6 some time.

7 Q. And the same question with respect to
8 the heritage guidelines, they were referred to in the
9 evidence as well. Do you know when they will be
10 approved?

11 A. I can't give you a specific date. I
12 believe I indicated in evidence-in-chief that they
13 were -- that the particular group dealing with that
14 were at the stage or near the stage where a draft
15 document -- draft initial document was being prepared.
16 So that is well into the process as well.

17 Q. And, again, would those draft
18 guidelines be issued to the district staff for use at
19 field level?

20 A. I am not certain of the exact process
21 that that particular group will be using. I suspect
22 that when I referred to a first draft I was referring
23 to a draft for the internal use of the particular
24 committee that was developing the guidelines.

25 I rather suspect you will see a process

1 where their final recommended report receives some kind
2 of an external stakeholder review, if you will, before
3 it is finally approved as well.

4 Q. So the heritage guidelines are not at
5 the stage yet where they are going down to the -- to
6 use in the timber management planning process?

7 A. No, at this point in time we deal
8 with those local heritage values on a case-by-case
9 basis and, in my experience, usually with local staff
10 that have expertise in archaeological matters.

11 Q. In particular with respect to the
12 deer guidelines, I understand it is the intention, once
13 they are approved, for them to be on the same level as
14 the moose, fish and tourism guidelines in the sense
15 they will be provincial guidelines?

16 A. Yes, that is my understanding.

17 Q. Once these are approved, is it the
18 Ministry's intention to have use of these guidelines
19 integrated into the monitoring program?

20 A. We would clearly be reviewing what
21 kind of monitoring program and the nature of monitoring
22 program that would be required.

23 Q. But there aren't any firm plans at
24 the moment with respect to monitoring for these
25 guidelines?

1 A. As you can appreciate, it will be a
2 matter of undertaking a specific review of what
3 complexity and the degree to which that kind of a
4 program would require relative to -- with an
5 understanding that the Ministry already is involved in
6 work with regard to deer management which, as well,
7 would be put on the table in assessing that particular
8 program.

9 But without making specific commitments,
10 we certainly would review it, but we would have to look
11 at the cost, the feasibility, the need that surrounded
12 the introduction of those guidelines and the need for a
13 specific monitoring program.

14 Q. Thank you. One area that I know will
15 be dealt with by a later panel but was touched on on
16 your evidence is the issue of training. One of the
17 courses that you identified was the timber management
18 planning training course.

19 A. Yes.

20 Q. is that correct?

21 A. Yes.

22 MS. SEABORN: I just want to file, Mr.
23 Chairman, at this point the outline to a course that
24 took place on October 4th and 5th, 1988. This was
25 provided to us in response to one of our interrogatory

1 questions with respect to this panel. (handed)

2 Could that have an exhibit number.

3 THE CHAIRMAN: Exhibit 413.

4 MS. SEABORN: Thank you.

5 ---EXHIBIT NO. 413: Outline of course provided in
6 response to MOE Question No. 10.

7 THE CHAIRMAN: Could we have one more,
8 please, Ms. Seaborn?

9 MS. SEABORN: Yes. (handed)

10 MR. COSMAN: Mr. Chairman, I wonder if we
11 might have the question and answer, or interrogatory
12 numbers so we can put this in perspective with that
13 question and answer..

14 MS. SEABORN: Yes, Mr. Chairman, it was
15 MOE Question No. 10.

16 THE CHAIRMAN: Thank you.

17 MS. SEABORN: With respect to Panel 8.

18 MR. COSMAN: Thank you.

19 MS. SEABORN: Q. I think we touched on
20 this earlier, Mr. Straight. These timber management
21 training sessions are new programs; are they not?

22 MR. STRAIGHT: A. The timber management
23 planning program is not necessarily new in the sense
24 that there has been training in the past, in my general
25 recollection, with regard to timber management

1 planning.

2 What this specific training program is,
3 is a reflection of the need to ensure that our staff
4 are up to date on the fairly new -- or certainly a much
5 revised and improved timber management planning process
6 and a response to the need to ensure that staff are
7 adequately trained in its application.

8 Q. I am not trying to suggest that this
9 is the first time you have ever had any training, but
10 with respect to the new timber management planning
11 manual, this is a 1986 document?

12 A. This clearly is an attempt to ensure
13 that we deal with the new plan, if you will, in a
14 comprehensive manner.

15 Q. And it is an attempt to deal with the
16 new planning process and I would also suggest an
17 attempt to deal with these new guidelines as well?

18 A. The entire process.

19 Q. Yes. And is attendance now and in
20 the future with respect to these sorts of training
21 programs a mandatory requirement for district staff?

22 A. My understanding is that staff who
23 will be involved in timber management planning within
24 the foreseeable future are generally requested to be
25 present at these training sessions.

1 Q. What I am trying to establish is
2 whether it is the Ministry's intention that these sorts
3 of training programs are something that staff must go
4 to; if you are going to be involved in timber
5 management planning, you should be taking these sorts
6 of courses, or whether it is in the form - like many
7 courses - it is an invitation to attend if you wish to
8 improve upon your knowledge in a particular area?

9 A. There is specific direction that
10 staff involved - and those staff have been identified -
11 and those staff are expected to attend. In that sense,
12 it is not simply a voluntary exercise, no.

13 Q. If you could just turn to page 95 of
14 the witness statement.

15 A. Yes, I have it.

16 Q. And you will see you have in the
17 middle of the page Section 2.4 Local Knowledge and
18 Experience.

19 A. Yes.

20 Q. And one of the statements that you
21 make in the evidence in the second paragraph is:

22 "This continuity of tenure in the area of
23 the undertaking is significant in that
24 actions and results of timber management
25 activities (the history) and information

1 about environmental values become
2 accumulated over time."

3 A. Yes.

4 Q. Would you agree with me that ensuring
5 continuity of tenure is something that is difficult for
6 MNR or any employer to control?

7 A. Tenure of staff or tenure of the
8 organization? In the sense of tenure of the
9 organization, it is a very easy thing to do, in the
10 sense that you maintain district office and district
11 boundaries within a particular vicinity and you use
12 that district organization to, as a repository, if you
13 will, for environmental information that accumulates
14 over time.

15 In the context of tenure of staff, that
16 is much more of a balancing act, you are right, and a
17 district manager, for example, should be closely
18 looking at his staff to try and obtain an appropriate
19 balance to the degree that he can.

20 He wants to educate and he wants to
21 train, he wants to motivate staff to be prepared for
22 advancement and sometimes people leave. At the same
23 time he has to recognize the need to try and maintain
24 some continuity in staff to the degree that he can.

25 Q. So for any employer, and MNR

1 included, it is always a difficult question in terms
2 of, you train someone and then they leave for whatever
3 reason and you have lost a valuable source of
4 information in the sense that you have trained that
5 person?

6 A. We don't look at it as a loss within
7 MNR, we look at it as having been -- successfully
8 having trained someone. We look at our filing systems,
9 our basic inventory systems within the district to be
10 essentially the repository of information that was
11 collected.

12 Q. Well then, having that information
13 written down in a comprehensive and environmental
14 database then is really a preferable way to have your
15 information stored rather than in the mind of one of
16 your staff. You would agree with that; wouldn't you?

17 A. There are practical limitations to
18 the degree that -- which you can go both ways. There
19 is some information which I think was explained in 7
20 that lends itself to being documented in inventories.
21 Clearly there will be some observations of staff and
22 some types of information which don't lend themselves
23 readily to documents or, if it does, it is difficult to
24 find a slot within a filing system where that fits.

25 You can deal with that in a couple of

1 ways. Staff at the district level do talk to each
2 other and so information in a person's mind is
3 transferred from staff to staff.

4 And the other thing that is fairly common
5 within the Ministry of Natural Resources is that staff
6 quite often stay within the Ministry, that they are
7 approachable. If you need to call upon an individual's
8 experience in the district to help resolve a specific
9 issue, that individual is normally available for
10 contact.

11 Q. Well, that is fine, and I appreciate
12 that, but with respect to how information is stored and
13 how information is documented, it is still easier at
14 the district level for someone to go and look in the
15 records or see what has happened in the past from
16 records that are written down rather than having to
17 rely on the fact that a particular employee has been
18 there for 20 years and will be able to provide me with
19 the answer.

20 It is safer if it is written down; would
21 you accept that?

22 A. You really have to be specific when
23 you dwell into the information in that context. It is
24 my understanding that -- it is my experience that often
25 written information in a documented form simply in my

1 mind triggers a need to generate more understanding.
2 And I personally - and I guess this is a matter of
3 personal style, to some degree - but quite often I find
4 that I would contact individuals to get more of the
5 circumstances and a better understanding of situations.

6 But you are generalizing and when you
7 generalize you tend to confuse the issue more than
8 help.

9 Clearly there are areas - and those were
10 identified in 7 - where district databases are very
11 clearly documented, but I think we also wanted to point
12 out the fact that you can't exclude the observations of
13 district staff and their experience that may or may not
14 lend itself readily to a documented format.

15 Q. No, but if something isn't documented
16 somewhere there is a danger of losing that, if your
17 only reliance is on whatever the information an
18 individual has, if that is your only source of
19 information then, that may not exist?

20 A. I guess when you deal in the
21 hypothetical sense without a specific case example,
22 there always is a danger of losing something.

23 Q. Thank you. Mr. Straight, both Mr.
24 Williams and then Mr. Armstrong asked you a number of
25 questions about a document entitled: The Policy for

1 the Integration of Other Resource Values in Timber
2 Management.

3 MS. SEABORN: And, Mr. Chairman, that was
4 filed as Exhibit 390.

5 THE CHAIRMAN: Thank you.

6 MS. SEABORN: Q. Do you have that with
7 you?

8 MR. STRAIGHT: A. No, I don't. (handed)

9 Q. Thank you.

10 A. I have it now.

11 Q. And I believe you advised the Board
12 that the method by which this policy is to be
13 implemented is through the area of concern planning
14 process; is that correct?

15 THE CHAIRMAN: Do we need this in front
16 of us?

17 MS. SEABORN: I don't think so, Mr.
18 Chairman.

19 THE CHAIRMAN: Okay.

20 MR. STRAIGHT: I would generally agree
21 that the area of concern planning process is a primary
22 vehicle to assist in delivering this policy. It is
23 somewhat broader than that in that it relates right
24 back to the entire timber management planning process
25 in the sense that you utilize this in identifying areas

1 of concern and utilize the spirit of this particular
2 policy throughout the timber management planning
3 process.

4 MS. SEABORN: Q. Mr. Straight, are you
5 aware of a memorandum between the Ministry of Natural
6 Resources and the Ministry of Environment dated May
7 5th, 1988? It was filed as Exhibit 5A in these
8 proceedings.

9 MR. STRAIGHT: A. I would have to see
10 that particular document to be certain.

11 Q. Perhaps your counsel could provide
12 you with a copy of it.

13 MS. SEABORN: I believe the Board should
14 have this exhibit with them. I asked Mr. Mander to
15 provide it to you. It is Exhibit 5A, Mr. Chairman.

16 MR. COSMAN: Mr. Chairman, it would be
17 helpful for our purposes if not only Mr. Mander be told
18 but that other counsel be told, because we have to send
19 somebody upstairs to get it now.

20 MS. SEABORN: Mr. Cosman is quite right,
21 I apologize.

22 Q. Mr. Straight, if you could just turn
23 to, I believe it is page 9, if you have a large bundle.

24 MR. STRAIGHT: A. I believe I have it.
25 That's a memo to --

1 MR. COSMAN: Mr. Chairman, we can't
2 follow the cross-examination. Unless counsel has
3 another copy, we have to wait just a couple of minutes.

4 THE CHAIRMAN: Well, could you ask a
5 specific question or just read the --

6 MS. SEABORN: I am going to ask a
7 specific question and just read in one section and
8 there is only one question on this point, Mr. Cosman.

9 Q. If you could turn to page 9,
10 subsection 4(b) of the agreement?

11 MR. STRAIGHT: A. Yes.

12 Q. Now, this section states:

13 "MNR will notify field staff that the
14 policy and procedure for 'integration of
15 other resource values in timber
16 management' is superseded by
17 descriptions of the planning process
18 contained in the Timber Class EA."

19 Do you see that?

20 A. Yes, I do.

21 Q. Were you aware of that provision?

22 A. I had generally reviewed that
23 particular document at one point in time. In a general
24 context, I would have seen that.

25 I would also suggest that my response to

1 it suggested that the spirit of this particular policy
2 is dealt with by the specific prescriptions, if you
3 will, within -- or directions as outlined in the timber
4 management planning manual.

5 Q. Well, that's the only point I am
6 trying to make, Mr. Straight. There were a number of
7 questions asked on this and -- on this policy and what
8 I wanted to find out from you was whether you know if
9 field staff have been notified that essentially this
10 policy, Exhibit 390, has been superseded by the Class
11 EA?

12 A. I would qualify that to say that I
13 have read this particular memo and, in that context,
14 would have reviewed that particular Section 4(b) that
15 you referred to. I am not personally aware of whether
16 our planning staff in the region have actually had the
17 notification that's referred to here, though.

18 Q. Would you agree with me that for
19 practical purposes the policy shown in Exhibit 390 is
20 not a policy that district staff should be relying on
21 when they are preparing timber management plans?

22 A. They would utilize the current
23 provincial guidelines, that would be the particular
24 thing that they would deal with most, and the direction
25 in the timber management planning manual, and they

1 would work within the spirit of integration that's
2 contained within the timber management planning manual
3 and the Class EA.

4 Q. But for practical purposes in the
5 future, the district staff need not concern themselves
6 with this policy, per se?

7 I mean, policies are often superseded by
8 other policies in the course of history, and all I am
9 trying to establish is that for future planning this
10 policy is no longer a basis upon which planning should
11 be done?

12 A. That would certainly appear to be the
13 case in terms of the direction that's outlined in 4(b).
14 As I said, I haven't seen that specific notification
15 though to give you a confirmation as to whether that
16 has occurred.

17 Q. Thank you.

18 A. Although I would expect it would be
19 forthcoming.

20 Q. Thank you, Mr. Straight.

21 MS. SEABORN: Thank you, Mr. Chairman,
22 those are all my questions.

23 THE CHAIRMAN: Thank you. I suppose
24 we -- are you through with this panel completely?

25 MS. SEABORN: I am finished, Mr.

1 Chairman?

2 THE CHAIRMAN: Thank you. We might as
3 well take the morning break at this point, Mr. Freidin.
4 Will you be ready for re-examination?

5 MR. FREIDIN: I would like an hour if I
6 could, please.

7 THE CHAIRMAN: One hour, very well. It
8 is a quarter after ten, we will return at quarter after
9 eleven.

10 Thank you.

11 ---Recess taken at 10:15 a.m.

12 ---Upon resuming at 11:45 a.m.

13 THE CHAIRMAN: Thank you. Be seated,
14 please.

15 Mr. Freidin?

16 RE-DIRECT EXAMINATION BY MR. FREIDIN:

17 Q. Mr. Straight, my first question is
18 for you and I am going back to the cross-examination of
19 you by Ms. Swenarchuk. And she asked you a couple of
20 questions about provincial guidelines and areas of
21 concern, and I want to just read to you a portion of
22 the transcript.

23 This is found at page 10886 and I am
24 going to read from lines 3 through to 21. Ms.
25 Swenarchuk said to you:

1 "Mr. Jeffery asked you a question
2 yesterday about what happens -- now, this
3 is with regard to the application of the
4 guidelines - and I believe you indicated
5 that the primary emphasis is that the
6 guidelines are to be used. And Mr.
7 Jeffery asked you what happens if they
8 are not used, and you referred to the
9 fact that that would become clear in the
10 planning process for the areas of concern
11 and in, I will use my words, the paper
12 trail that follows that planning
13 process."

14 That's what Ms. Swenarchuk stated. She then continued,
15 she said:

16 "But isn't it correct, Mr. Straight, that
17 if, for example, the guidelines were not
18 applied and, therefore, a given resource
19 value area was not identified as an area
20 of concern that would not turn up in the
21 planning..." pardon me, "...that would
22 not turn up in the previous planning
23 process because it would never have been
24 registered within the planning
25 documentation?"

1 Now, you said:

2 "If it had not been identified...", you
3 said, "...that's correct."

4 In providing that answer, was it your intention to
5 agree with the suggestion within the question that if
6 provincial guidelines are not applied a given resource
7 value would be missed and, therefore, would not be
8 identified as an area of concern?

9 MR. STRAIGHT: A. Would you repeat that,
10 please, Mr. Freidin?

11 Q. Let me repeat what she said to you:
12 "But isn't it correct, Mr. Straight, that
13 if, for example, the guidelines were not
14 applied and, therefore, the given
15 resource value was not identified as an
16 area of concern that wouldn't turn up in
17 the previously planning process because
18 it would never have been registered
19 within the planning documentation?"

20 And you said:

21 "If it had not been identified, that's
22 correct."

23 My question for you is: In providing that answer, was
24 it your intention to agree with the suggestion within
25 Ms. Swenarchuk's question to you, that if the

1 provincial guidelines are not applied that means that a
2 given resource value would be missed and, therefore,
3 would not be identified as an area of concern?

4 A. The context in which I was responding
5 dealt with the potential situation where a value may
6 not have been identified in the first instance.

7 If, for some reason, the value did not
8 appear on a resource values map, for example, there may
9 be a potential tourism value that may not have been
10 flagged by MTR, for example, and obviously if that was
11 not identified, there is a chance that it would not go
12 through the area of concern planning process in the
13 documentation.

14 It is within that context that I was
15 responding to Ms. Swenarchuk.

16 Q. A hypothetical: If there was a
17 fisheries value out there in the management unit, could
18 that get identified quite independent of whether or not
19 the guidelines were referred to?

20 A. That could be identified independent
21 of the guidelines. In fact, I think during
22 cross-examination generally I illustrated how easy it
23 was to apply the fisheries guidelines and the
24 information base you needed and that was basically a
25 knowledge of the water resources. Similarly, the way

1 in which the moose guidelines are applied contains
2 specific direction with regard to information that must
3 be obtained.

4 I didn't want to be inferred in any way
5 in suggesting to Ms. Swenarchuk that it was all that
6 easy, necessarily, the way we do business to miss that
7 many values, and I was dealing in strictly the
8 hypothetical sense that if, for example, some value did
9 not appear, well obviously it would not be part of the
10 process.

11 Q. Thank you. Now, again for you Mr.
12 Straight and Dr. McNamee. During cross-examination by
13 Mr. Williams, he asked whether it was important to
14 predict significant impacts.

15 I want to quote to you, Mr. Straight,
16 from the transcript, Volume 65, and I will provide the
17 page later at another time Mr. Chairman, it didn't get
18 reproduced on my copy. This was the question by Mr.
19 Williams:

20 "Would you agree that it is desirable,
21 however, to predict significant impacts?"

22 A. I believe we have done that.

23 Q. Will panels -- any one of
24 the Panels 10 through 14 be adducing
25 evidence relating to the quantitative

1 tools to be used for impact prediction
2 for significant features such as moose?"

3 You answered:

4 "I believe that it is already on record
5 in terms of dealing even earlier with
6 some of the material that, as Dr. McNamee
7 alluded to here, there is a general lack
8 of that quantification for rules as to
9 how moose will be impacted."

10 Then you said:

11 "That doesn't mean there
12 isn't a lot of understanding in terms of
13 the directions and the nature of
14 potential effects."

15 What did you mean by that last statement that:

16 "That doesn't mean there isn't a lot of
17 understanding in terms of the directions
18 and the nature of potential effects"?

19 A. We know, in a general way, that moose
20 require specific types of habitat. We know they
21 generally respond to early successional stages of the
22 forest to meet nutrient requirements. We know that
23 there are very specific type of habitats they may
24 require in various parts of moose range, particular
25 types of forest stands for wintering areas.

1 We have conducted a number of studies
2 ourselves in that particular area, we also have the
3 benefit of other studies, scientific studies that have
4 been conducted on moose.

5 While we know that moose require those
6 specific types of habitat at particular stages, we also
7 know -- we are not in a position to be able to
8 quantitatively, for example, estimate the effect at a
9 population level of what removal of a particular
10 aquatic feeding area may be or disruption of the actual
11 habitat in the vicinity of that aquatic feeding area.

12 And we are -- similar with most of the
13 potential effects of timber management, we are unable
14 to quantitatively predict what those changes in habitat
15 will mean in terms of quantitatively estimating the
16 number of moose that may be able to occupy that
17 habitat.

18 Q. Now, in that context, what do you
19 mean about understanding directions of potential
20 effects?

21 A. The direction of potential effects
22 was to get at my understanding of basically the concept
23 that we know that since moose respond favourably to
24 early successional stages of habitat in terms of
25 meeting their food and nutrient requirements, we are

1 generally aware that over time, in the longer run, that
2 the nature of that response is positive, moose do
3 respond positively to that -- to the creation of that
4 kind of habitat in terms of being able potentially to
5 increase numbers relative to that variable itself.

6 Q. And, Dr. McNamee, are you able to
7 indicate whether you can agree with Mr. Straight's
8 evidence that he just gave?

9 DR. McNAMEE: A. By and large, it was my
10 sense from the group of experts that we had at the
11 effects monitoring workshops all the way through that
12 the views that Mr. Straight just described to you were
13 shared by all of the experts there.

14 Q. Okay. Do you have Exhibit 405 in
15 front of you, Dr. McNamee?

16 A. Which one is that that you're looking
17 for?

18 Q. That's the brief of Dr. Baskerville
19 to the Standing Committee?

20 A. Yes. Yes, I do.

21 THE CHAIRMAN: What is the exhibit
22 number?

23 MR. FREIDIN: Exhibit 405.

24 Q. Could you turn to page 3 of that, Dr.
25 McNamee. I would like to read together with you, Dr.

1 McNamee, most of the paragraph -- the first paragraph
2 that is found under the heading: The Principles.

3 Starting with the second sentence, it says:

4 "There are many wildlife species in the
5 forest each with its own habitat
6 requirements. Often a species requires
7 different types at different times in its
8 life cycle. The habitat of a species is
9 probably unique as a result of evolution
10 but there are many overlaps and our
11 ability to quantitatively define the
12 habitat types is limited. However,
13 observations has resulted in acceptance
14 of a large number of species habitat
15 relationships in qualitative form. It is
16 known that populations react in number
17 and quality of individuals to changes in
18 the amount and quality of habitat. Even
19 if there are no existing measures for
20 number and quality in the population or
21 for amount and quality in the habitat or
22 quantitative expressions linking
23 these..." and then he highlights "...the
24 existence of the link in nature is
25 accepted. Wildlife populations are

1 distributed and prosper in relation to
2 the pattern of habitat types in a forest.
3 In qualitative terms, the above
4 principles of habitat are accepted by
5 everyone."

6 And can you advise me: Does the subject of that
7 paragraph bear any relationship to the answers you just
8 adopted in relation to knowing the direction of
9 effects?

10 DR. McNAMEE: A. The way I view the word
11 qualitative, in that sense, as it is explained here, my
12 understanding of that word is that you can understand
13 and know what the direction of the effect is. That's
14 my understanding of that word.

15 Q. Mr. Straight, can you advise me
16 whether the guidelines that we were referring to; fish,
17 moose and tourism, are intended to address those
18 directions as best you can?

19 MR. STRAIGHT: A. Yes, I believe that to
20 be the case.

21 Q. Thank you. Dr. McNamee would you
22 turn to your report, Exhibit 381.

23 DR. McNAMEE: A. The one dated March
24 1988?

25 Q. Yes. And perhaps before I refer you

1 to that report, Dr. McNamee, you have agreed that the
2 directions as discussed are known and you have also
3 indicated in your evidence that the understanding --
4 that certain relationships are uncertain. You use that
5 phrase in your report.

6 A. Yes.

7 Q. Is there any inconsistency between
8 knowing the direction of the things we are talking
9 about and being uncertain about those relationships?

10 A. None whatsoever in my mind.

11 Q. And could you explain why that's the
12 case?

13 A. It all boils down to whether or not
14 you can predict and describe in quantitative terms what
15 the effects may be.

16 I would have to say that based on the
17 results of the workshops that there is a great deal of
18 uncertainty right now, that exists right now in being
19 able to assess, in a quantitative way, what the effects
20 of timber management actions may be.

21 Q. Now, could you turn to Exhibit 381,
22 page 216. Do you have that page, Dr. McNamee?

23 A. Yes, I do.

24 Q. There is a portion on that page that
25 has been the subject of questions from more than one

1 counsel, and I am referring to the first full
2 paragraph, about halfway down, starting at the extreme
3 right-hand side of the page with the word: "To say
4 that..."

5 I want to just read that together, that
6 particular paragraph, and this is a part of the report
7 that was authored by ESSA:

8 "To say that the guidelines are designed
9 to protect the resource value; i.e., the
10 population from timber management
11 activities, implies that the relationship
12 between habitat and levels of different
13 resource values is known. Based on the
14 discussions at the April workshop
15 documented in Chapter 3 of this report,
16 it is obvious that this relationship is
17 not well understood."

18 Is there a relationship between that statement and the
19 evidence you have just given about knowing direction
20 and quantitative versus qualitative ability to define
21 effects?

22 A. I believe we wrote that in order to
23 state that a quantitative relationship between changes
24 in habitat and changes in amounts of the resource value
25 itself in a quantitative sense are not well known.

1 Q. Was it meant to indicate that the
2 relationships were not known qualitatively as described
3 by Mr. Straight?

4 A. No.

5 Q. Thank you. Dr. McNamee, you were --

6 MR. FREIDIN: One moment, Mr. Chairman.

7 Q. Dr. McNamee, you were asked by Mr.

8 Armstrong, I am quoting:

9 "Whether it is unreasonable for someone
10 to have less than perfect confidence in
11 the guidelines or the stringency of
12 them?"

13 And you responded, and I think I have got you down
14 accurately:

15 "The results of the workshop reflect to
16 me as a scientist that the effectiveness
17 of the guidelines to deal with those
18 timber management effects from a
19 scientific point of view is uncertain and
20 uncertain enough that an effects
21 monitoring program needs to be
22 conducted."

23 What I would like to know is: What did you mean when
24 you referred to effectiveness from a scientific point
25 of view is uncertain?

1 DR. McNAMEE: A. That in terms of being
2 able to quantitatively predict or understand how well
3 or how -- the effectiveness of those guidelines and in
4 being able to understand which effect - let me see if I
5 can state this properly - which of the possible effects
6 of timber management actions may be the most important
7 effect, we are uncertain about that.

8 Q. Mr. Straight, just before we leave
9 this area, in your answers you referred to early
10 successional stages. Could you just explain what that
11 means?

12 MR. STRAIGHT: A. Basically, the early
13 life stages, the early growth period of a forest stand,
14 if you will.

15 Q. Mr. Scott, during cross-examination
16 by Mr. Cosman he asked some questions to determine the
17 degree to which companies could rely on an improved
18 plan as a commitment. Do you recall that line of
19 questioning?

20 MR. SCOTT: A. Yes, I do.

21 Q. Can you tell me: Where a value which
22 requires protection from timber management is
23 identified after approval of the plan, for example,
24 during the five-year -- somewhere during that five-year
25 term of the plan, are there any mechanisms to deal with

1 protection of this value during the five-year term and,
2 if so, are you able to describe that mechanism?

3 A. I believe there is an amendment
4 procedure to the timber management plan and it is
5 contained in the Class EA and exactly where it is I am
6 not sure, but I believe it describes it in the Class EA
7 as we have submitted.

8 Q. Thank you very much.

9 MR. FREIDIN: That will be dealt with in
10 Panel 15, Mr. Chairman.

11 Q. For you, Mr. Straight. I want to ask
12 you some -- a question about the amount of discretion
13 varying between guidelines.

14 During cross-examination by Ms.
15 Swenarchuk you admitted that the tourism guidelines do
16 not include specific prescriptions similar to those
17 found in the fish guidelines re: slope. You agreed
18 that the direction is not that specific in the tourism
19 guidelines.

20 In your evidence you also indicated that
21 there are varying degrees of flexibility or discretion
22 in the three provincial guidelines between non-timber
23 values, the greatest flexibility being provided in the
24 tourism guidelines and the least amount of discretion
25 being provided in the fish guidelines.

1 And my question for us is: Can you
2 advise what the reason is for the different degrees of
3 flexibility or discretion as you describe in your
4 evidence?

5 MR. STRAIGHT: A. The different degrees
6 of flexibility reflects a number of things. It
7 reflects the nature of the particular resource value,
8 and I guess that perhaps may summarize it generally.

9 The tourism guidelines, for example, if
10 you recall, deal with a particular individual or a
11 particular public interest, if you will. The process
12 that was established to deal with protection of that
13 particular value has to be a process which includes
14 consultation between the different parties, if it is
15 going to be successful, because obviously that tourist
16 value and the tourist operator that uses that
17 particular value will have a very sincere stake in the
18 resolution of the issue, will bring a lot of his own or
19 her own personal information to the table for
20 discussion purposes, and the process is one which
21 actively encourages and involves the stakeholders to
22 attempt to reach a solution that is amenable in that
23 particular instance.

24 The fisheries guidelines, on the other
25 hand, basically have their foundation in the Ministry's

1 mandate to administer legislation including the
2 Fisheries Act in the context of habitat protection and
3 readily lend themselves to very -- more readily lend
4 themselves to very explicit direction in terms of how
5 to deal with various types of aquatic environments.

6 Q. Thank you. Question for you, Dr.
7 McNamee --

8 MRS. KOVEN: Excuse me. Mr. Straight,
9 didn't you tell us a few days ago about the sorts of
10 public excitement that was generated by fisheries
11 issues??

12 MR. STRAIGHT: Yes, I did.

13 MRS. KOVEN: And you don't see that as
14 playing a role, you are separating that particular
15 situation from fisheries guidelines generally?

16 MR. STRAIGHT: The guidelines to protect
17 fish habitat deal with mechanisms and modifications to
18 what may be perceived as normal operations to ensure
19 that the habitat itself is protected.

20 The tourism guidelines as well speak to
21 mechanisms to protect tourism. We do deal in the real
22 world with the issue of local angling needs, and it may
23 become a part of the resolution of a specific issue,
24 but there are not guidelines that specifically deal
25 with that.

1 MRS. KOVEN: So in fact you don't have to
2 have public participation in developing fisheries
3 habitat guidelines?

4 MR. STRAIGHT: The premise for the most
5 part, I believe, is that our professional staff, our
6 fisheries biologists are essentially the scientific or
7 the fish habitat stakeholders, if you will, here and I
8 believe, in my experience, that they play that role in
9 recognition of their mandate as well to administer the
10 Fisheries Act and protect fish habitat.

11 Having said that, the public do play an
12 integral part in the process, both in identification of
13 potential values that exist out there, and if they do
14 have specific concerns, their input would be solicited
15 during the timber management planning process, the
16 public consultation phase.

17 MRS. KOVEN: But not in the same way as
18 you would with tourist operators around the table, a
19 consultative fashion?

20 MR. STRAIGHT: In practice I would -- my
21 experience has been that if a member of the public has
22 a fish habitat concern, that quite often it becomes
23 dealt with in the same around-the-table process, if you
24 will. But in fact, in many cases, also in my
25 experience, the stakeholder that identifies the fish

1 habitat as a concern is most often a tourist operator.

2 MR. FREIDIN: Q. Now, Mr. Straight,
3 following along from that, the question from Ms. Koven
4 was whether or not there was public participation in
5 the preparation of fisheries guidelines.

6 Now, in relation to that issue, the
7 provincial guidelines, was there any public involvement
8 or input into that document before it was finally
9 approved by the Ministry?

10 MR. STRAIGHT: A. Yes. Perhaps I missed
11 on that particular point. In terms of the guidelines
12 themselves, as distinct from dealing with a local issue
13 within the timber management plan, the actual
14 guidelines were submitted for review by the stakeholder
15 groups that were a party to the Class EA.

16 Q. Now, in terms of not timber
17 management plans now but fisheries management plans,
18 can you advise whether the public have any opportunity
19 for input or involvement in the preparation of
20 fisheries management plans which you have indicated in
21 your evidence almost all districts have at the present
22 time?

23 A. Yes, they do. Yes, they do.

24 Q. And can you describe just very
25 generally how that public participation opportunity

1 compares to the public participation opportunities
2 provided in timber management planning?

3 A. I believe it to be similar in that
4 the context of our resource management planning does
5 follow a general direction and a general format which
6 includes public consultation in a similar form between
7 all of our resource management plans.

8 MR. FREIDIN: Just a moment, Mr.
9 Chairman.

10 Q. Dr. McNamee, the counsel for Forests
11 for Tomorrow, Ms. Swenarchuk, referred you to Exhibit
12 380 which is your backgrounder paper - I don't think
13 you have to go to it. You were asked to agree that the
14 emphasis in the workshops was on the physical and
15 biological environment not the socio-economic
16 environment. Do you remember that?

17 DR. McNAMEE: A. I recall that, yes.

18 Q. Now, your response to that suggestion
19 was: "not completely", and you referred her to page
20 214 of Exhibit 381, and before you completed any sort
21 of explanation of what was on page 214, Ms. Swenarchuk
22 went to another question.

23 Can you advise me; is there anything on
24 that page or any other pages perhaps of the Exhibit 381
25 which indicates that the socio-economic environment was

1 indeed considered during those workshops?

2 A. Once more through that, I didn't
3 quite catch...

4 Q. All right. Was the socio-economic
5 environment considered during the workshops by the
6 participants?

7 A. Inasmuch as we had to deal with the
8 effects of timber management actions on those three
9 resources.

10 Q. And can you point to anywhere in the
11 report where we would find some evidence of that?

12 A. Yes. If you look at, for example,
13 pages 193.

14 Q. Yes, I have that.

15 A. That is -- that shows the effects of
16 various timber management actions on the number of
17 hunters which may use tourism operations. And I
18 believe if you read the results of that sub-group that
19 dealt with that particular impact, there would be a
20 reference to socio-economic effects.

21 I believe the same argument can be made
22 looking at page 202 where the effect is on the -- I
23 would say is the, I suppose, health of the tourist
24 operation.

25 Q. Are those two hypotheses dealt with

1 by the same sub-group?

2 A. By and large, yes.

3 Q. Were there other hypotheses that that
4 sub-group dealt with and, if so, would they have any
5 consideration to socio-economic in relation to those
6 hypotheses?

7 A. There is not exactly the exact same
8 group there. If you look at page -- at the authors
9 listed on page 195 and 204 you will find that there was
10 not exactly the same sub-group, but another one is on
11 page 180 of the report, again, a fairly large group and
12 also pages -- page 168 as well.

13 Q. Dr. McNamee, without going through
14 each of them, is there something that would indicate to
15 the reader that the socio-economic environment had in
16 fact been considered within any particular hypothesis?

17 What would somebody want to look for if
18 they were asking themselves that question in going
19 through this document by themselves, if you can. If
20 you can't generalize, that is fine too.

21 A. Well, I am not sure that it is
22 obvious. The one thing that I think it is safe to say
23 is that those kind of issues had to be raised and
24 discussed when we were looking at tourist operators and
25 so on, but in terms of what evidence and so on was

1 actually raised and talked about in those groups, I
2 would have to go through the text itself.

3 Q. Okay. Thank you.

4 Mr. Straight, in relation to the
5 application of the provincial guidelines, you were
6 asked that:

7 "If the region does not do a field
8 inspection, can it determine if the
9 guidelines have been applied..."

10 That is, can you determine that the guidelines have
11 been applied without the field visit:

12 "...i.e., without the field visit, the
13 auditors won't really know if they have
14 been followed."

15 You indicated there was potential for that type of
16 thing to occur but indicated when regional people go
17 out that you would expect that they would do a site
18 inspection of sorts.

19 Can you advise: Is there any formal
20 direction that they go out in the field and do a site
21 inspection?

22 MR. STRAIGHT: A. I am not currently
23 aware of any formal direction that they go out and do a
24 field inspection.

25 Q. Okay. Now, there was a reference in

1 your answers in relation to this topic to Panel 16 and
2 you said that compliance monitoring would address this.

3 Could you advise how the compliance
4 monitoring to be described in Panel 16 will address the
5 issue or concern that there be field visits to audit
6 whether the provincial guidelines were being applied
7 properly?

8 A. Whether the prescriptions that were
9 developed using the guidelines were applied properly or
10 whether the guidelines were used properly?

11 Q. Whether the guidelines were being
12 applied properly?

13 A. The compliance monitoring program
14 will be describing how the Ministry inspects to ensure
15 that operations were carried out as required and how
16 the Ministry documents that.

17 The question of the regional audit, which
18 I believe the subject of that particular question dealt
19 with, whether or not the region in going and auditing a
20 district in ensuring that they had done the compliance
21 monitoring that indeed they were going to do and
22 whether they had documented things in the right way,
23 may or may not include a field inspection.

24 Q. So when you are talking about during
25 timber management planning if someone is doing

1 compliance monitoring they go out to see whether the
2 prescription that was developed perhaps as a result of
3 applying the guidelines was actually followed?

4 A. That would be the compliance
5 monitoring program.

6 MR. MARTEL: Well, how do you tell now?
7 I mean, let us say you have a plan and there hasn't
8 been a field visit, how can you tell now if in fact
9 compliance has occurred, whether it is with respect to
10 guidelines or to whether somebody had promised to do
11 something and in fact hadn't done it or has done it?

12 MR. STRAIGHT: The Ministry has routinely
13 utilized a program called our cut inspection program
14 which traditionally and commonly inspects timber
15 management activities both during and after the
16 activity has occurred in the field. And, in the past
17 particularly, a lot of the emphasis of that particular
18 program was on the compliance with the Crown Timber
19 Act.

20 So that cut inspection program is
21 essentially a very basic program within the Ministry
22 which, as part of our responsibilities for compliance
23 monitoring in this Class Assessment, we have integrated
24 the concept of a more comprehensive evaluation of both
25 timber operations for compliance with the Crown Timber

1 Act but also the measurement of timber management
2 activities for compliance with conditions dealing with
3 specific areas of concern.

4 And so we have basically built on
5 something we have already had to expand its context and
6 to provide a greater integration and delivery of
7 compliance monitoring.

8 MR. MARTEL: All right.

9 MR. FREIDIN: Q. And, Mr. Straight, in
10 assessing whether the provincial -- well, whether in
11 fact a prescriptions -- conditions imposed as a result
12 of the guidelines in areas of concern have been
13 followed, are there any maps, photographs or records
14 kept on a regular basis which would be a surrogate for
15 or take the place of an actual site inspection?

16 MR. STRAIGHT: A. I can't recall whether
17 I alluded to that in my response or not, but quite
18 commonly there are aerial photographs of completed
19 timber operations which actually represent a visual
20 look at a particular situation.

21 MR. FREIDIN: Mr. Chairman, those sorts
22 of matters will be referred to in more detail in Panel
23 16.

24 Q. Dr. McNamee, you indicated in your
25 evidence that for one resource value in northwestern

1 United States it took approximately 20 man years to get
2 a computer model which could be used as a management
3 tool to predict effects.

4 If you wanted to do that, but deal
5 with -- have a model like that, but you wanted to deal
6 with more than one resource, could you advise how the
7 time required and the complexity of the task might
8 differ from that northwestern United States'
9 experience, if at all?

10 DR. McNAMEE: A. I suspect that the
11 amount of time involved would be even more than that,
12 because you would have to worry about the interactions
13 amongst the resources of interest.

14 Q. Thank you. Now, assuming that a
15 model or the model that was discussed here, assuming
16 that the model was actually improved to the point that
17 it could reasonably be used to make predictions, are
18 there any risks involved in using a model of that sort
19 to assist in making timber management decisions?

20 A. I would think that the largest risk -
21 and I have seen some evidence of that through some of
22 our firm's work in the States - is that the model
23 output or the model results become the plan and there
24 is a danger in removing any of the -- any opportunity
25 for particular expertise or what have you from planning

1 itself either because the person using that tool comes
2 to believe that the outputs and the results of the
3 model are indeed what would actually happen, or it may
4 also happen if the agency or the group who owns that
5 model says that the output of the model or the results
6 of the model shall be used as is. I think that is the
7 major risk involved in using a model of that sort.

8 Q. I take it then that using the model
9 sort of as is, what comes out, and actually believing
10 that the outputs and the results of a model are what
11 will actually happen are not good things?

12 A. Never.

13 Q. Thank you. Mr. Scott, a few
14 questions about your short history as a fish and
15 wildlife supervisor.

16 You were cross-examined by Mr. Williams
17 regarding some of the positions that you did hold with
18 the Ministry and there was discussion regarding your
19 being the fish and wildlife super in Ignace District
20 for a six-month period, I believe January to June of
21 1987; is that correct?

22 MR. SCOTT: A. I believe I took over in
23 February and went through to June 8th, I think it was.

24 Q. Okay. Now, Mr. Williams in his
25 cross-examination also established that the district

1 manager, a Mr. Paul Wyatt was professionally trained as
2 a geographer.

3 And my question for you, Mr. Scott is:
4 Just prior to being appointed the fish and wildlife
5 super in Ignace District, what position did you hold?

6 A. I was a forest management supervisor.

7 Q. When you were the fish and wildlife
8 supervisor for that short period of time, were there
9 any district biologists who had formal training in
10 biology in the district?

11 A. Not in the district at that time. We
12 were about to recruit a district biologist and that
13 process had started while I was there.

14 Q. Did you fill that position while you
15 were there?

16 A. Not while I was there, no.

17 Q. Were there any contract biologists
18 working in the district at the time that you were the
19 fish and wildlife supervisor?

20 A. We had one contract biologist, a
21 fisheries biologist who was helping to write the
22 fisheries management plan in conjunction with the
23 regional team that was put together and she worked for
24 the district at the time.

25 Q. Were there -- was there any one --

1 MR. FREIDIN: Just one moment, please.

2 Thank you.

3 Q. Mr. Scott, again for you. When Mr.
4 Williams was examining you on the timber management
5 planning process, he asked you a number of questions
6 regarding the calculation of maximum allowable
7 depletion. And he suggested to you that the
8 calculation of the maximum allowable depletion was
9 quite mechanical and that someone with technical
10 experience could trace through the process.

11 In your answer you indicated that with
12 just some technical expertise it would not necessarily
13 be easy to trace that.

14 Now, in Panel No. 3, Dr. Osborn described
15 the maximum allowable depletion determination as yield
16 regulation. Are you familiar with that particular
17 exercise being referred to as yield regulation?

18 MR. SCOTT: A. I can't remember using
19 that term, but I think I can understand the concept.

20 Q. All right. Could you advise whether
21 the subject matter of yield regulation or maximum
22 allowable depletion, the role it plays, is a subject of
23 study during your university course in forestry?

24 A. Yes, it was. In terms of our forest
25 management courses, yes.

1 Q. And are you aware as to whether or
2 not courses in yield regulation are given to any other
3 faculty at the University of Toronto?

4 A. Forest yield regulation?

5 Q. Yes.

6 A. I believe it is exclusively in the
7 faculty of forestry.

8 Q. Thank you. Again for you, Mr. Scott.
9 In questioning from Mr. Williams he took you through
10 part of the timber management planning process. You
11 may recall he said Step 1 and he asked you some
12 questions, Step 2, Step 3?

13 A. Yes, I recall.

14 Q. And you indicated that you were
15 having difficulty taking those two diagrams in the
16 Environmental Assessment Document, the one which is
17 Figure 2.11 and fitting it in to the overall schedule
18 for preparation of a plan. Do you remember the
19 difficulty you were having?

20 A. Yes, I do.

21 Q. Now, when were you were having that
22 difficulty you said and I am quoting you:

23 "It is difficult to explain this
24 relationship because we are exchanging
25 information all the time."

1 Now, what did you mean by that and how was that causing
2 you some confusion?

3 Perhaps deal with the first one: What
4 did you mean by 'we are exchanging information all the
5 time'?

6 A. I guess in a sense when we work
7 within districts we always have public contact and
8 dialogue back and forth between the many client groups,
9 and timber management planning is not a static process
10 where we do Step 1, Step 2, Step 3, Step 4; that in
11 fact there is dialogue back and forth both during the
12 course of executing the timber management plan, doing
13 the other activities within the Ministry of Natural
14 Resources, and just interacting with the wide variety
15 of clients we have out there.

16 And I think what I was trying to get at
17 at the time that in the planning team, when they write
18 the timber management plan, that there is interaction
19 between the authors and the other members of the
20 planning team, sometimes specifically related to that
21 plan and sometimes not, but there is always exchanges
22 of information going back and forth and that also
23 includes public information as well.

24 It is a dynamic process, not one that
25 just follows Step 1, 2, 3, 4 at all times.

1 Q. If you get information six months
2 into the plan about something that you may have done
3 around month three, you wouldn't ignore it, you might
4 take that information and think about what you did in
5 month three?

6 A. I would say, in my experience, we do
7 that.

8 Q. All right.

9 MR. FREIDIN: Mr. Chairman, I would just
10 like to make --

11 Q. Well, do you have the EA in front of
12 you, the Environmental Assessment Document? Could you
13 turn to page 108, please.

14 MR. SCOTT: A. Yes, I am there.

15 Q. Do you have that? And would you just
16 look at - don't read it out loud - just look at lines
17 22 to 31, the last full paragraph before the
18 description of Step 1. Have you read it?

19 A. Yes, I have.

20 Q. In your view does that capsulize your
21 evidence?

22 A. Very accurately.

23 Q. Thank you. For you, Mr. Straight.
24 Are the issues or are issues regarding fish, moose and
25 tourism, notwithstanding that they are the subject of

1 provincial guidelines, amenable to resolution at the
2 local level?

3 MR. STRAIGHT: A. Yes.

4 Q. In relation to the work that ESSA was
5 retained to assist with, can you advise why the terms
6 of reference were not wider in scope than addressing
7 the three resource values which were the subject matter
8 of provincial guidelines?

9 A. I had some concerns when Dr. McNamee
10 was referred to a particular section, page 1 on the
11 executive summary of the Effects Monitoring for
12 Resource Protection Guidelines in Ontario for that
13 report.

14 Q. That's the March, '88 Report?

15 A. That's correct.

16 Q. It is marked Exhibit 381. And you
17 are saying page 1 of the executive summary?

18 A. That's correct.

19 Q. Okay.

20 A. And the particular sentence he was
21 referred to said:

22 "Most of these issues and concerns are
23 local and are dealt with on a
24 case-by-case basis."

25 In reality, all issues and concerns are dealt with on a

1 local basis and on a case-by-case basis.

2 I believe in the evidence-in-chief I
3 generally attempted to describe the situation where
4 there are some issues, if you will, that have
5 traditionally arose in timber management planning that
6 we have chosen to deal with in a provincial context in
7 the sense that there were a number of characteristics
8 which those particular resource values have, and I
9 referred to in the evidence-in-chief, and that by going
10 about protecting those values which have commonly
11 arisen through a mechanism of developing provincial
12 guidelines, they also lend themselves for the
13 development of an effects monitoring program of a very
14 specific nature to compliment the guidelines in terms
15 of a provincially-focused program which, in our
16 estimation, is the most practical and effective way of
17 dealing with it.

18 It is within that context that we asked
19 ESSA to assist us in examining those three provincial
20 values, to gain a comprehensive understanding of all of
21 the potential effects and the nature of those potential
22 effects and recommendations for an effects monitoring
23 program.

24 Q. Thank you. Can you advise, Mr.
25 Straight, are native people involved in developing any

1 of the provincial guidelines which are in preparation
2 at the present time?

3 A. They are involved very actively in
4 developing cultural and heritage appreciation
5 guidelines.

6 Q. And this may be a -- well, I will ask
7 the question. Do you know why they are involved in
8 that particular project?

9 A. They are involved in that particular
10 project because they have a very sincere interest in
11 that particular guideline. They have a lot of
12 information on it.

13 They can advise from -- in the sense that
14 most heritage appreciation features, archaeological
15 features are very much a part of their culture, they
16 are a key stakeholder group in determining how they
17 should be protected and to ensure that guidelines that
18 are developed can appropriately deal with those issues.

19 Q. Now, you used the phrase sincere
20 interest, you said that the native people had a sincere
21 interest in that subject of that particular project.
22 What do you mean when you use that phrase?

23 A. Sincere is probably too much of a
24 generalization. It probably -- it is perhaps best
25 described by suggesting that the relationship to their

1 culture is what we are protecting and--

2 Q. And that is the subject -- I am
3 sorry, go ahead.

4 A. --and, in that context, there is a
5 very real interest, a close association.

6 Q. All right.

7 THE CHAIRMAN: Mr. Straight, in the
8 development of those guidelines, to your knowledge, are
9 native rights involved?

10 MR. STRAIGHT: In terms of culture and
11 heritage appreciation, I don't believe so, sir. I
12 don't personally interpret that to be the case.

13 THE CHAIRMAN: Is that one of the
14 reasons, in your opinion, that the native peoples are
15 involved where they have not been involved in
16 development of some of the other guidelines, because it
17 does not involve interpretation of native rights into
18 some of those issues which we have heard some evidence
19 that they didn't wish to get involved in at that time
20 because of jurisdictional problems and --

21 MR. STRAIGHT: In the context of the
22 heritage values, they very much become technical
23 experts, if you will, and that is perhaps the easiest
24 way to explain it. Their knowledge of their culture,
25 their knowledge of their past, their knowledge of

1 potential locations and the nature of those locations
2 for heritage values becomes significant technical
3 information to the development of guidelines.

4 Where we got off, to some degree, to some
5 confusion when we dealt with native interests relative
6 to the development, if you will, of moose guidelines or
7 the assessment of effects and why they weren't
8 involved, is because they were not considered technical
9 experts in the same sense.

10 When we use the moose guidelines or the
11 fish guidelines to protect moose populations and fish
12 populations, we recognize that we are providing for a
13 great many uses for a great many different stakeholder
14 groups. Some are natives, some will be local
15 recreationists, some will be tourists and tourist
16 operators.

17 And in that context, it was our feeling
18 that bringing technical fish experts, technical moose
19 experts to the sessions that we had with ESSA was
20 indeed looking at protecting populations of those
21 species, recognizing that a great many users would
22 benefit from those populations.

23 MR. FREIDIN: Q. Mr. Straight, still
24 sticking with the three provincial guidelines in
25 relation to moose, fish, and tourism. If a decision is

1 made, based on the results of the monitoring program,
2 that the provincial guidelines themselves be amended,
3 will the Ministry of Natural Resources' stakeholders,
4 as defined by the Ministry - widely defined, and that
5 would include native peoples - would they have an
6 opportunity to comment or to have input regarding those
7 amendments before any proposed amendment actually
8 became finally approved by the Ministry?

9 A. They would have an opportunity for
10 input before the Ministry's final position, yes.

11 Q. And is that common with all three
12 provincial guidelines?

13 A. Yes, it is.

14 Q. Thank you. Dr. McNamee, you
15 indicated to Mr. Hunter that one of the instructions
16 that you received from the Ministry was to ensure that
17 the best technical expertise was there or was involved
18 in order to be able to examine what those effects on
19 the three resource values might be.

20 And my question is simply: Were you
21 successful in implementing or in carrying out that
22 instruction, in your view?

23 DR. McNAMEE: A. Yes, I believe we were.

24 Q. Thank you. Sticking with you, Dr.
25 McNamee, Mr. Hunter referred you to certain portions of

1 the text by Dr. Holling and he referred you to page
2 116 - and I don't think you have got to go there - but
3 he referred to page 116 of the text where the subject
4 of uncertainties were dealt with--

5 A. Yes.

6 Q. --and there were a number of them.

7 And the first one that he referred you to was
8 uncertainty in objectives.

9 In his questioning he asked you whether
10 you could determine the significant connections or the
11 cause/effect relationships without dealing with
12 tradeoffs. Do you remember that questioning?

13 A. Yes.

14 Q. You answered in the affirmative and
15 then Mr. Hunter said:

16 "Well, in what sense?"

17 And your answer was, I am quoting:

18 "Using the effects monitoring program as
19 a case in point, Item No. 1 means you
20 have to be able to define the important
21 pathways of effect."

22 Now, in the workshop that you conducted in relation to
23 the three guidelines, was there a definition or an
24 attempt to define the important pathways of effect?

25 A. The important pathways of effect are

1 described in our March, 1988 Report and the pathways of
2 effect that we used are these ones here which are the
3 first page of each of the 13 groups.

4 Q. You are referring to all the lines
5 that connect the action at the bottom of the page to
6 the effect at the top of the page?

7 A. Yes.

8 Q. And you have got one of those for
9 each hypothesis?

10 A. Yes.

11 Q. And you have a description of what
12 sort--

13 A. What those are.

14 Q. --what those hypotheses were--

15 A. Yes.

16 Q. --in relation to each of the steps on
17 the way up the pathway?

18 A. Yes, all of that is in this report.

19 MR. FREIDIN: Mr. Chairman, it might be a
20 good time for an adjournment. I am going to be at
21 least another two hours, I think.

22 THE CHAIRMAN: Okay. I think we will
23 maybe just take an hour for lunch.

24 MR. FREIDIN: Fine.

25 THE CHAIRMAN: You are prepared to come

1 back after an hour?

2 MR. FREIDIN: Yes.

3 THE CHAIRMAN: Very well. We will come
4 back at two o'clock.

5 ---Luncheon recess taken at 1:00 p.m.

6 ---Upon resuming at 2:00 p.m.

7 THE CHAIRMAN: Thank you. Be seated,
8 please.

9 Mr. Freidin?

10 MR. FREIDIN: Q. I have some questions
11 for both Dr. McNamee and Mr. Straight relating to the
12 matrix that Mr. Hunter used in his cross-examination.

13 First, that you -- well, these are
14 questions directed to Mr. Straight, but they arise out
15 of an examination of Dr. McNamee by Mr. Hunter.

16 So, Mr. Straight, I would like to refer
17 you to some examination of Dr. McNamee. In answering
18 questions from Mr. Hunter about the use that a matrix
19 might be put to in timber management planning, he
20 stated, and I am quoting him:

21 "In context of developing a timber
22 management plan which occurs on a piece
23 of ground every five years, and dealing
24 with a relatively small set of actions,
25 then I would think you would have to do a

1 lot more than a matrix approach, you
2 would have to look at the nature and
3 consequence of what those effects will
4 be."

5 Now, can you agree with that statement, Mr. Straight?

6 MR. STRAIGHT: A. Yes.

7 Q. Can you advise me, do timber
8 management plans, in your view, reflect the application
9 of more than a matrix approach?

10 A. Yes, I believe they do.

11 Q. Could you explain in what way you
12 believe that to be the case?

13 A. I believe that in general the results
14 of prescriptions in timber management plans are a
15 reflection of a fairly long process, an attempt by the
16 Ministry to understand in some depth the nature and the
17 significance of effects of timber management actions.

18 And perhaps the amount of effort that has
19 been involved, for example, and the amount of
20 understanding that's involved in building the
21 provincial guidelines, for example, are representative
22 of the nature of the degree to which we are attempting
23 to understand the effects of timber management.

24 Q. And in that context, when you refer
25 to prescriptions, were you referring to non-timber --

1 or prescriptions in relation to non-timber values only
2 or were you including reference to timber values?

3 A. The reference would include both.

4 Q. Could you indicate or advise me, Mr.
5 Straight, does this Environmental Assessment - and by
6 that I mean Exhibit 4 which is the Environmental
7 Assessment Document, all of the written evidence which
8 has been filed to date, all of the oral evidence which
9 has been led to date and which you understand will be
10 led at least as part of the Ministry's case - describe
11 the nature and the consequence of potential effects of
12 timber management?

13 A. I believe that it does and that it
14 will as more is led in, yes.

15 Q. Could you advise whether this would
16 constitute all of those things, would constitute a more
17 explicit and detailed consideration of those effects
18 than would the type of matrix referred to by Mr.
19 Hunter?

20 A. Yes, I believe that.

21 THE CHAIRMAN: I would hope that two
22 years' worth of evidence would be more than one or two
23 pages' worth of a matrix; wouldn't you, Mr. Freidin?

24 MR. FREIDIN: Well, I certainly hope so.

25 THE CHAIRMAN: Otherwise we are all

1 wasting our time, I would suggest.

2 MR. FREIDIN: Q. Again for you, Mr.
3 Straight, some questions relating to the
4 cross-examination by Mr. Hunter about the effect of
5 access being opened up to certain areas and having
6 possibly an effect on moose habitat.

7 Do you recall that general line of
8 questions?

9 A. Those questions of Dr. McNamee, I
10 believe, yes.

11 Q. Yes. Now, could you advise me: What
12 are moose tags and what is their purpose?

13 A. Moose tags are essentially a specific
14 adjunct, if you will, to a moose hunting licence which
15 allows an individual hunter to legally hunt for and
16 take an animal of a specific species or age context.

17 The Ministry manages hunting, if you
18 will, of moose populations by looking at population
19 status of animals and predicting an allowable yield on
20 an annual basis, and that allowable yield translates
21 into the number of adult bulls and adult cow, moose,
22 for example and those quotas, or potential yields if
23 you will, are then basically given to hunters on the
24 basis of a draw mechanism.

25 So that as an individual wanting to hunt

1 moose, I would need an adult bull tag to be able to
2 shoot an adult animal, and it is a mechanism of
3 controlling the huntable or the hunting exploitation of
4 moose populations.

5 Q. Can you advise me whether the tags or
6 the quotas which are represented by them are issued for
7 specific geographical areas?

8 A. They are issued by wildlife
9 management unit, yes, specific geographical units.

10 Q. If there is a redistribution of
11 hunting pressure in a wildlife management unit as a
12 result of road building or any other cause, does the
13 number of moose allowed to be killed change for that
14 wildlife management unit?

15 A. There may be a within year change in
16 the success rate of people eligible to hunt bulls or
17 cows or whatever as a result of some access changes,
18 for example. But, in the long run, the population of
19 animals and those which are taken by hunting is
20 controllable through the tag process.

21 Q. Now, when you say that the success
22 rate may be greater in the short run, legally should
23 the success rate ever exceed the quota represented by
24 the -- should the success rate by those people who need
25 tags exceed the quota set by the issuance of those

1 tags?

2 A. That's where I was referring to, to
3 over time those situations are controllable.

4 The reference in terms of Dr. McNamee's
5 cross-examination was to the effect of access roads, as
6 I recall, on exploitation of moose in a very specific
7 area and the reference suggested that there would be
8 locally heavy hunting pressure and a potential
9 over-exploitation of that herd or that very local
10 population.

11 And individuals -- I believe Mr. Hunter
12 was expressing some concern to why the Ministry wasn't
13 worried about that. And we weren't worried about that
14 in particular because that high pressure and high kill
15 in one area of the timber management unit would be
16 balanced by a lower kill in the rest of the management
17 unit, and the Ministry feels comfortable that our
18 ability to be able to adjust the number of animals that
19 are taken on a timber management unit provides a very
20 acceptable way of controlling exploitation by hunters.

21 So it becomes a very localized issue and
22 not an issue within the whole context of a timber
23 management unit.

24 THE CHAIRMAN: How do you take into
25 account other methods of how animals are lost such as

1 fire, road kills, this kind of thing?

2 MR. STRAIGHT: Those are built in in
3 terms of looking at non-hunting mortality records and
4 Mr. Hunter alluded to things like subsistence hunting.
5 That is another form of activity that would be taken
6 into account before actually projecting the huntable
7 harvest, if you will.

8 MR. FREIDIN: Q. So hunting is then
9 taken into account?

10 MR. STRAIGHT: A. Yes, it is.

11 MR. MARTEL: Can I ask a question?

12 MR. FREIDIN: Yes.

13 MR. MARTEL: How do you determine it is
14 the locals as opposed to, let's say, the outsiders, by
15 reviewing the number of tags and who has purchased
16 them?

17 MR. STRAIGHT: There is a specific
18 allocation of 10 per cent of the harvest to the tourist
19 industry, the rest of that harvest is projected harvest
20 basically is accessible to residents of the province.

21 MR. MARTEL: So when you are talking
22 about others, you are talking about people from outside
23 province then as opposed to locals just within the
24 immediate environ to the area of work?

25 MR. STRAIGHT: I am not sure of the

1 specific context that you are raising there, Mr.
2 Martel.

3 MR. MARTEL: I think you said in the
4 study it says that locals tend to, when you have
5 access, locals to frequent or hunt more.

6 MR. STRAIGHT: Yes.

7 MR. MARTEL: Are you referring to locals,
8 those in the immediate area, or province-wide?

9 MR. STRAIGHT: I would -- my
10 interpretation of that particular situation would be
11 the road accessible hunters, the non-tourist guests in
12 that particular case. And that was the distinction in
13 the particular effects pathway that Dr. McNamee was
14 being questioned on.

15 The issue was one of how does local
16 hunting, in a generalized sense non-tourist
17 facility-based hunters using road access, relate to
18 those going through the tourist industry.

19 So the context in which I used it just
20 basically meant to differentiate between tourist-based
21 hunters and non-tourist based hunters.

22 MR. FREIDIN: Q. Do you have a copy of
23 Exhibit 377 in front of you which is the Moose
24 Management Policy of December the 15th, 1980?

25 MR. STRAIGHT: A. Yes, I do.

1 Q. And can you advise whether that
2 document refers in any way to the harvest of moose by
3 native people, and I think rather than have you sort of
4 play hide-and-go-seek with the words which are there,
5 perhaps you could just perhaps refer to the first page,
6 Item No. 3.0 under the heading: Policy Guidelines.

7 Does that deal with the native peoples'
8 harvest?

9 A. It says:

10 "Native peoples' harvest of moose is to
11 be recognized in the planning and
12 management of moose."

13 Q. Would you turn to page No. 5 and
14 would you read, please, the short paragraph which
15 begins:

16 "It is stated government policy..."

17 A. "It is stated government policy that
18 the resources of Ontario belong to all
19 the people of Ontario. However, the
20 government recognized its obligations
21 under the Indian treaties and gives
22 primary consideration to subsistence use
23 by native people."

24 Q. Thank you.

25 MR. MARTEL: Could I ask another

1 question? You indicate the numbers that are taken.

2 You don't count the number taken by native people.

3 How do you bring the two things together;

4 (a) the number that are taken by moose tags - and you
5 can identify those - yet in a specific area, there is
6 no way of determining the number of moose taken by
7 natives, as I understand it, because they don't require
8 a tag.

9 How do you calculate roughly what has
10 been taken from a specific unit then?

11 MR. STRAIGHT: The moose - and I will
12 generalize here because it has been a while since I
13 have specifically dealt with that issue - but we do
14 make attempts to look at and generate information on
15 non-hunting mortality which include things like wolf
16 kills, road kills, that sort of thing.

17 In a very general sense, the local staff
18 may have an idea of at least an order of magnitude of
19 subsistence hunting just from their experience in being
20 in that area doing work in association with their
21 responsibilities.

22 The primary means of estimating those
23 animals that constitute a huntable harvest come from
24 routine inventories of population densities through
25 aerial surveys and tracking the actual harvest itself

1 of animals and looking at those -- tracking the harvest
2 of animals through mail questionnaire surveys for one
3 thing that are normally run out of our main office, as
4 well through those moose jaw collection techniques that
5 you may have had some reference to in the Sudbury area
6 where people turn in the lower jaw of an animal and
7 they will get a hat or something of that nature in
8 return.

9 Those kinds of data allow us to track the
10 sex and age characteristics of the animals that are
11 taken and those kinds of statistics, in comparison or
12 in a consideration of the aerial inventory of the
13 animals on a reasonably routine basis, allow biologists
14 to make those projections.

15 MR. FREIDIN: Okay?

16 MR. MARTEL: Yes.

17 MR. FREIDIN: Q. All right. Now, while
18 we are just dealing with certain native-related issues,
19 I want to refer you, Mr. Straight, to some
20 cross-examination from Mr. Colborne.

21 He pointed out during his
22 cross-examination of you that you had been actively
23 involved in the strategic land use planning exercise
24 and he then posed the following question, he said:

25 "Why are they..."

1 And he was referring to the Strategic Land Use Plans,
2 he says:

3 "Why are they all silent regarding Indian
4 treaty rights?"

5 And you stated that you couldn't answer the question.
6 But I understand that you have in front of you a copy
7 of Exhibit No. 8 which is the Northeastern Ontario
8 Strategic Land Use Plan; is that correct?

9 MR. STRAIGHT: A. Yes, I do.

10 Q. Would you please turn to page No. 9
11 of that document. Page No. 9, you have got a heading
12 there: Local and Traditional Users?

13 A. That's correct.

14 Q. Would you take a quick look at that
15 and I would direct your attention primarily to the
16 right-hand side of that particular section and just
17 tell me whether in fact it refers to native people?

18 A. Yes, it does.

19 Q. And would you look at the second last
20 paragraph. Would you perhaps read it so we can
21 determine whether in fact these documents are all
22 silent on Indian treaty rights.

23 A. It says:

24 "The allocation of the region's fish and
25 wildlife resources will be guided by the

1 following priorities:

2 1) maintenance and/or rehabilitation of

3 the resource;

4 2) the resource rights of treaty Indians;

5 3) recreational benefits to the residents

6 of Ontario; and,

7 4) the greatest economic benefits to

8 Ontario."

9 Q. And is there a footnote on that page
10 which speaks to the second item which was the resource
11 rights of treaty Indians?

12 A. Yes, it is.

13 Q. Could you read that, please.

14 A. It says:

15 "The existing treaty and aboriginal
16 rights as referenced in the Canadian
17 Constitution will be further defined at
18 future constitutional conferences."

19 Q. Thank you, Mr. Straight. I
20 understand that you also have before you the Northwest
21 Region Planning -- or Strategic Land Use Plan, Exhibit
22 No. 9; is that correct?

23 A. That's correct.

24 Q. Now, could you refer to page No. 4 of
25 that document and can you advise whether there is a

1 reference under the heading: The Public Interest,
2 which refers to native people?

3 A. Yes, there is.

4 Q. All right. I don't think I will take
5 the time to have you read that, but it is the section
6 under the heading: Discussion; is that correct?

7 A. Under the section, sorry...?

8 Q. Under the heading: Discussion?

9 A. Yes, it is.

10 Q. And would you turn to page 43 which I
11 understand is part of the section of the land use
12 planning document dealing with wildlife?

13 A. That's correct.

14 Q. And under: Strategy, would you go
15 down and please read the fourth bullet?

16 A. It says:

17 "B) Strategy: The objective will be
18 achieved by..."

19 And the fourth bullet is:

20 "giving Ontario residents priority in
21 allocation of hunting opportunities
22 acknowledging the commitment to native
23 peoples' treaty rights."

24 Q. Thank you.

25 MR. FREIDIN: Mr. Chairman, some

1 questions arose during cross-examination in relation to
2 the Game and Fish Hearing Board as to whether that
3 Board had recommending powers or decision-making
4 powers.

5 I would just like to advise that it's
6 recommending powers and I would direct the Board's
7 attention to Exhibit 359 which is the Game and Fish Act
8 and, in particular, Sections 41(2), (3) and (4).

9 Q. Now, I have a couple of questions for
10 you, Mr. Scott, and --

11 MR. FREIDIN: Section 41(2), (3) and (4).

12 THE CHAIRMAN: Sorry, Section 41 is that
13 what it was?

14 MR. FREIDIN: Yes, 41(2), (3) and (4) and
15 it is Exhibit 359.

16 THE CHAIRMAN: Okay.

17 MR. FREIDIN: Q. I want to ask you some
18 questions about FMA reviews and the review and approval
19 process for timber management plans.

20 Now, Mr. Scott, Mr. Armstrong asked you a
21 number of questions about the auditing that carried out
22 FMA reviews. Do you remember being questioned about
23 that?

24 MR. SCOTT: A. Yes, I recall that.

25 Q. Now, there was also reference during

1 that questioning to reviews of timber management plans.
2 Can you advise me whether there is a difference between
3 the review of a forest management agreement, which you
4 indicated in your evidence reviews the obligations and
5 any other commitments of the FMA holder, is there a
6 difference between that and the review and approval
7 process for a timber management plan?

8 A. When I spoke to that I tried to
9 suggest the terms of reference of our FMA review was in
10 fact to review the commitments and obligations by the
11 company as they had met them. In a sense, that was
12 done after the fact, it was after a five-year period of
13 the FMA and we reviewed that FMA at that time as was
14 being done at five-year intervals.

15 My understanding of the TMP review, in my
16 experience, and primarily relating to what went on in
17 the northwest region, is that that review, the TMP
18 review is done before the plan is approved. So that
19 review would be of a draft plan before that goes into
20 place.

21 Q. So are they two different processes?

22 A. Oh very much so, two completely
23 different processes.

24 Q. Okay. And for a forest management
25 agreement holder, can there then be both a review of

1 the performance of the FMA holder in satisfying the
2 obligations set out in the forest management agreement
3 on the one hand, and for the same management unit there
4 could also be a review and approval process of a timber
5 management plan prepared for that unit?

6 A. I would say that, in my experience,
7 there are both.

8 Q. Thank you very much.

9 Mr. Straight, I would ask you to get
10 Exhibit 406 and have it in front of you, that is the
11 Report of the House of Commons Standing Committee on
12 Environment and Forestry.

13 MR. STRAIGHT: A. Yes, I have it.

14 Q. Okay. Would you turn to page 35.16.

15 A. Yes.

16 Q. Now, that is the page that has at the
17 bottom left-hand side in the English portion of this
18 document the conclusion.

19 A. Yes.

20 Q. Would you please just take a moment
21 and to yourself read the first paragraph under that
22 conclusion.

23 A. Yes.

24 Q. Okay. Do you remember being directed
25 to that particular portion of the document by Mr.

1 Armstrong?

2 A. Yes, I do.

3 Q. And I have it that in your evidence
4 you agreed with the statement to the extent that it
5 indicated that all natural resources; wildlife and
6 timber, be managed on a sustainable context, those were
7 your words. Do you recall giving that answer?

8 A. Yes.

9 Q. Now, you were then referred to the
10 last sentence of that particular paragraph which refers
11 to precise goals for the forest industry and the
12 protection of habitats and wildlife.

13 And what I would like to do, Mr.
14 Straight, is to read back to you what you said in
15 relation to that particular topic. You said:

16 "I agree that within the theoretical
17 context it is desirable to have explicit
18 goals for all values, but the
19 practicality is that we are not there
20 yet."

21 I am going to come back and ask you a question about
22 that, you said:

23 "The practicality is that we are not
24 there yet. There is a great amount of
25 uncertainty to establish those clear

1 quantitative links and, therefore, those
2 quantifiable goals. We must be faced
3 with the practical situation of being in
4 an environment with imperfect knowledge
5 and the Ministry of Natural Resources has
6 developed a practical approach."

7 And then you said:

8 "And at the same time, not to close the
9 door, you will see we have attempted to
10 build in quantitative..."

11 I didn't get everything:

12 "...into Panel No. 16."

13 When you were saying that you thought it was desirable
14 to have explicit goals for all values, but then said
15 the practicality is that we are not there yet, what I
16 would like to know is: Not where yet? What were you
17 referring to?

18 A. There are a whole host of resource
19 values out there within the area of the undertaking and
20 in the real world. It was a fairly general statement.

21 There are fisheries resources, MOE has
22 concern for water quality, there are tourism values,
23 there are heritage values, there are wildlife values
24 beyond moose, there are a great many species both of
25 plants and wildlife, in general.

1 To be able to develop specific goals for
2 every one of those species or every one of those values
3 tends to be an extremely complex undertaking
4 particularly when you also try and relate to the fact
5 that measurement towards reaching goals as part of a
6 government organization requires commitment of
7 energies, requires an acceptance, first I guess, of the
8 goals themselves, then a commitment of energies to be
9 able to meet those goals.

10 So I was really expressing those concerns
11 in an extremely broad framework.

12 Q. Okay. Now, later on when you said
13 that "faced with the practical situation of having
14 imperfect knowledge, the Ministry had developed a
15 practical approach", but then you said:

16 "And at the same time, not to close the
17 door, you will see we have attempted to
18 build in quantitative..." something "...
19 into Panel 16."

20 And really what I want to know is: I want to make sure
21 I understand what you mean when you say: We haven't
22 closed the door. You haven't closed the door on what?
23 I can read that statement to you:

24 "And at the same time, not to close the
25 door, you will see we have attempted to

1 build in quantitative...into Panel 16."

2 A. The attempt not to close the door, in
3 that context, is meant to infer that we are working
4 towards providing the research, the monitoring efforts,
5 if you will, to improve our understanding of certain
6 specific effects on certain resource values so that we
7 can develop those goals more precisely by attempting to
8 quantify the actual relationships between timber
9 management activities and resource values such as
10 moose.

11 Q. Okay. Now, when you, as a resource
12 management administrator, speak of goals or objectives,
13 over what timeframe or timeframes are the various
14 objectives that you have to be concerned about to be
15 achieved?

16 A. There is quite a range of variability
17 in those specific goals and targets. When we deal with
18 moose populations, for example, I believe we were
19 looking at essentially a 20-year planning horizon.

20 If we are dealing within a timber
21 management plan, we are looking specifically at five
22 years' worth of operations normally with a reflection
23 of the 20-year plan.

24 When I deal with an annual work plan --
25 well, no, that is not the same sort of context. There

1 is some variability in the context as I related between
2 the 20-year planning horizon and those five-year
3 objectives within a timber management plan.

4 Q. So some of the time horizons are
5 shorter than others?

6 A. That's correct.

7 Q. Now, you testified that as a resource
8 administrator that you had concern for developing a
9 product and that you needed a practical and reasonable
10 program that you could deliver as opposed to matters
11 which were still being researched. Now, did I pick up
12 the gist of what you said correctly?

13 A. In a general sense.

14 Q. When you made that comment, were you
15 making it in the context of any particular timeframe?

16 A. I believe that was in my specific
17 reference to the adaptive management technique; is that
18 correct?

19 Q. I think it was in relation to the
20 habitat supply analysis.

21 A. Habitat supply analysis. I am, sorry
22 Mr. Freidin, would you just repeat that again?

23 Q. All right. You testified that as a
24 resource administrator you had concern for developing a
25 product and that you needed a practical and reasonable

1 program that you could deliver as opposed to matters
2 still being researched. And what I am trying to find
3 out: When you made that comment, were you making it in
4 the context of any particular timeframe?

5 A. Yes, I was making it in the context
6 of dealing with the current timeframe in the sense that
7 current levels of understanding, the current
8 organizational structure, the current capabilities to
9 deliver a product.

10 Q. Can you, in any way, sort of put a
11 year -- a number of years approximately that you are
12 thinking about? When you say current...?

13 A. Without being a little more explicit
14 I wouldn't want to do that. Can you define that
15 perhaps?

16 Q. Well, can you be more explicit so
17 that you can do it?

18 A. When I refer to being able to deliver
19 a practical management approach it relates, in my mind,
20 to the current status of the technology of resource
21 management, if you will. I relate it as a resource
22 management administrator to the government organization
23 and its capabilities to be able to deliver a product
24 and in recognition of the public environment in which
25 we work. And when I say current, in that context, I

1 would probably say that over the next five years or so,
2 generally speaking, that would be the way to go.

3 I think I also tried to suggest generally
4 that the Ministry is open to innovation and to new
5 ideas and to improvements that we would phase-in
6 through a very carefully selected experimentation trial
7 basis, for example, in the first instance as one
8 potential avenue to go, but that we would still be
9 keeping options open in the long-run to certainly adopt
10 and to use new technology as it became available to us
11 and as we recognized its utilization or its
12 effectiveness to be able to deal with specific resource
13 management issues.

14 Q. Thank you. Now, Dr. McNamee, Mr.
15 Armstrong asked you a number of questions about the
16 amount of time that participants spent in the various
17 stages of the project that you described in your
18 evidence.

19 DR. McNAMEE: A. Yes.

20 Q. And you testified - and I think I
21 have got you down here fairly accurately - you said:

22 "None of the staff were involved in
23 writing up the model."

24 And then you said:

25 "Re inputs, two man months from all

1 staff was the time involved."

2 Now, in relation to the first comment, none of the
3 staff were involved in writing up the model, who does
4 staff refer to?

5 DR. McNAMEE: A. I believe the question
6 was asked to me and -- in terms of MNR staff, and my
7 answer was in terms of MNR staff.

8 Q. So that that would read then that, no
9 MNR staff were involved in writing up the model?

10 A. That's right.

11 Q. Now, in the second matter you say:

12 "Re inputs, two man months from all
13 staff."

14 First of all, what are the inputs that you are
15 referring to?

16 A. The inputs in that sense are the data
17 and parameters that the model that we built needed to
18 have in order to be able to work. Things, such as, we
19 had to have -- for our particular area, we had to have
20 a list of timber science in that large area, where they
21 were in that large area, their species and their age
22 and things of that sort.

23 Q. All right. And when you referred to
24 two man months from all staff were involved in that,
25 who was included?

1 A. I meant the word staff there to mean
2 MNR, to mean all of the non-ESSA people.

3 Q. Those would be all the participants--

4 A. Yes.

5 Q. --in the program, other than ESSA
6 people?

7 A. That's right.

8 Q. Now the two man months then from all
9 of those participants was that two months cumulatively
10 or was that for each participant?

11 A. That was overall.

12 Q. Okay. And when you gave your
13 evidence that two man months were involved in inputs by
14 the participants, does the time estimate for those
15 participants involve all the time they spent on the
16 project? By that I mean, did it involve all of the
17 participants involved and all of the time they spent in
18 all of the workshops?

19 A. No, that refers to the amount of time
20 that they had to spend inbetween Workshops 1 and 2.

21 Q. If we took -- and could you in any
22 way sort of ballpark the amount of time in terms of man
23 months would be involved by all of those participants
24 in the whole process, not only between the workshops
25 but at the workshops as well.

1 A. My estimate in the March, '88 Report
2 was three person years were involved overall. Of that,
3 I would say our staff -- the time that our staff spent
4 was probably half a person year.

5 Q. Thank you. Now, sticking with you
6 for I think a little while, Dr. McNamee.

7 A. I thought so.

8 Q. Mr. Armstrong showed you an early
9 draft of hypothesis No. 9.

10 A. Yes.

11 Q. And you asked if you could refer to
12 page 156 of your report.

13 A. Right.

14 Q. And Mr. Armstrong said that was fine.
15 You did that and you explained the linkages between the
16 various timber management activities at the bottom and
17 the effects of the resource values at the top of the
18 page. Do you remember that?

19 A. Yes.

20 Q. Now, for each step referring to those
21 links you said: "We asked of people in the groups what
22 evidence exists at this time."

23 And I assumed you meant what evidence
24 exists at this time regarding those links?

25 A. Yes.

1 Q. And Mr. Armstrong said:

2 "Available evidence, evidence is always
3 quantitative that we know this, or we
4 know that."

5 Do you remember him saying that?

6 A. Yes.

7 Q. And you said no, you didn't agree
8 with him. You said no it's not, it depends on how you
9 define that term. Now, could you explain to me what
10 you meant by that response?

11 A. One can define that word in a number
12 of ways. If we look at the chart on page 156 and say
13 take linkage No. 2, okay, one can say that if the
14 habitat changes in this particular way, the energy
15 intake for each individual moose will increase or will
16 increase by a certain amount.

17 One can also define that word by saying
18 there is -- by saying that we have evidence from work
19 done on linkage 2 that, for example, moose prefer areas
20 of edge where there is old growth against new growth
21 and there is more -- and they prefer that edged area
22 because they have more access to certain species of
23 plants and, therefore, one would expect that they would
24 be able to increase their energy intake.

25 Q. And if you weren't able to sort of

1 identify the exact amount of that increase in energy
2 intake, you couldn't sort of quantify it precisely,
3 would that -- with the evidence that you would have
4 about that particular relationship between more edge
5 and energy intake be properly referred to as
6 qualitative?

7 A. Yes.

8 Q. Now, in your opinion, Dr. McNamee, is
9 there anything wrong with using qualitative data in the
10 process that you were involved in?

11 A. None at all. It is often, once
12 again, the best understanding that there may be.

13 Q. If you don't have the quantitative
14 data, then there is nothing wrong with using
15 qualitative?

16 A. No.

17 Q. And what about with resource
18 management planning, is there anything wrong with using
19 qualitative information in resource management
20 planning, and I will perhaps be more specific, with
21 timber management planning?

22 A. I would have to say no.

23 Q. Mr. Straight, do you have the
24 Baskerville Audit Report there?

25 MR. STRAIGHT: A. Yes, I do.

1 THE CHAIRMAN: Just going back one
2 minute. Dr. McNamee, if you had quantitative evidence
3 for one portion of the data and qualitative evidence
4 for another--

5 DR. McNAMEE: Yes.

6 THE CHAIRMAN: --does the interchange
7 affect your last answer at all? Does the fact that you
8 do not have the same type of data to compare one
9 against the other, make a difference to your last
10 answer?

11 DR. McNAMEE: I am not quite sure I
12 understand.

13 THE CHAIRMAN: Well, for instance, in a
14 timber management plan--

15 DR. McNAMEE: Yes.

16 THE CHAIRMAN: --you may have some
17 quantitative evidence as to how much wood is out there,
18 how much you are going to cut, the maximum allowable
19 depletion, et cetera; and for other values you may have
20 only qualitative data. Does the design of the plan in
21 terms of mitigative effects or impacts--

22 DR. McNAMEE: Okay. I would say that the
23 resources for which you have the -- you would probably
24 be able to do a better job for those resources or those
25 areas for which quantitative data exists, but if -- but

1 one should use a qualitative data certainly if that's
2 the only data that you have, certainly.

3 MR. FREIDIN: Q. Now, Mr. Straight, do
4 you have Exhibit 16 there?

5 MR. STRAIGHT: A. Yes, I do.

6 Q. Could you please turn to page 11?

7 MR. MARTEL: Which exhibit number?

8 MR. FREIDIN: Exhibit No. 16, the
9 Baskerville Audit Report, page 11.

10 Q. Do you have that, Mr. Straight?

11 MR. STRAIGHT: A. Yes, I do.

12 Q. Okay. You were asked a lot of
13 questions about qualitative and quantitative and you
14 see in the third full paragraph which begins:

15 "Integration is handled at the local
16 level as the plans are reviewed..."

17 Do you see that?

18 A. Yes.

19 Q. Now, in the first few lines Dean
20 Baskerville describes the process that the Ministry has
21 in place for integration, and I would like to just take
22 you to the sixth line, begins at the left-hand side:

23 "This team..."

24 A. Yes.

25 Q. All right. I am just going to read

1 this and perhaps we can read it together.

2 "This team..."

3 Referring to the interdisciplinary team:

4 "...discusses the interaction of timber
5 management activities and the long-term
6 outcome of those activities with the
7 other uses and determine the constraints
8 to be placed on timber management. There
9 was no evidence of the use of measurable
10 cause/effect relationships in this
11 process. In this respect, the quality of
12 the plan is directly proportional to the
13 level of interaction achieved in this
14 process. In four of the six cases, there
15 was good involvement, particularly
16 between the on-the-ground timber and
17 wildlife people. In those cases, it
18 appeared to the auditor that integration,
19 as it appeared in the plan, was the best
20 achievable in a situation where most of
21 the key relationships are not known
22 except in a most general form; that is,
23 in a situation where rigorous
24 optimization cannot be applied. The
25 manner in which these plans gave explicit

1 local forum to vague planning principles;
2 example, diversity, was arrived at with
3 full understanding on the part of the
4 timber and wildlife people for the
5 concerns of each other."

6 Can you understand that passage, Mr. Straight?

7 A. I have a degree of understanding. I
8 am like Dave Scott, I do have some problems in the way
9 Dr. Baskerville uses words, but generally I think so.

10 Q. Can you turn to page 12. Would you
11 go down five lines, please?

12 A. Yes.

13 Q. Now, if you can agree, that's fine,
14 agree; if you don't know, say you don't know, but I
15 just want to read to you certain portions and I will
16 stop at the end of each. Starting in the middle of
17 that line:

18 "If those involved..."

19 And he is talking about the people involved in timber
20 management planning:

21 "...have sufficient experience, decisions
22 reached in this manner..."

23 That's the manner we just referred to.

24 A. Yes.

25 Q. "...can have a reasonable probability

1 of resulting in the right local responses
2 in the forests when they are applied.
3 However, because these are independent
4 site-specific decisions they will not be
5 optimal in any rigorous sense for the
6 unit nor for the province."

7 Are you available to able to agree or disagree with
8 that?

9 A. I agree with the first sentence.

10 Q. All right. And the second sentence?

11 A. That sentence I don't totally agree
12 with because I don't -- I believe Dr. Baskerville is
13 referring to a process in place before the current
14 directions regarding the use of the guidelines, for
15 example. So I don't necessarily agree that these are
16 totally independent site-specific decisions in that
17 context.

18 Q. Okay, thank you. He goes on, he
19 says:

20 "Further, they..."

21 And he is talking about those local responses:

22 "...they may deviate from guidelines
23 because of local conditions and can
24 appear wrong to the remote person who
25 judges only in terms of conformance with

1 planning guidelines. There is a
2 considerable risk in this situation that
3 a rather good plan in the forest could be
4 faulted on very general principles in a
5 hearing remote from the forest, a
6 situation both lamentable and devastating
7 to the intellect of the timber and
8 wildlife people who conceived the plan."

9 Do you have any similar concerns?

10 A. I have a sense that what he is
11 talking about is that a good local decision may not be
12 adequately interpreted once it goes beyond the local
13 level, and I share his general concern there. I think
14 also we have come a considerable way in dealing with
15 that specific issue.

16 Q. Could you explain which way that is?

17 A. In the sense that, again, we now have
18 more specific direction in the terms of utilization of
19 provincial guidelines, we also have a specific area of
20 concern planning process into which those guidelines
21 feed which require more elaboration on the selection of
22 alternatives and the documentation of the rationale for
23 the selected preferred course of action.

24 Q. Thank you. Going back to you, Dr.
25 McNamee. I haven't forgotten you, Mr. Scott, I will

1 get to you. In fact, I am saving the last question for
2 you. Dr. McNamee, I would like to --

3 MR. FREIDIN: One moment, Mr. Chairman,
4 sorry.

5 Q. I want to refer you to some questions
6 and answers which started with the question from the
7 Chairman, Dr. McNamee. The Chairman asked you:

8 "In your professional opinion, which
9 approach would be better if you have
10 effectiveness monitoring?"

11 I think he was asking which approach was better, the
12 use of guidelines approach -- the guideline approach or
13 I think adaptive management was what the Chairman
14 indicated to you. And your answer was:

15 "Ignoring the time it takes to start up
16 and implement the adaptive management
17 approach and it is the approach, any
18 resource agency should move toward it
19 with reasonable speed."

20 "How long will it take", was the question
21 and you said:

22 "No agency or group practices adaptive
23 management in resource management It will
24 take a long time."

25 "And what is a long time?"

1 Was the question, and -- I am paraphrasing this, I am
2 trying to get this as accurately as I can. You said:

3 "Well, there is no experience to draw on.
4 I would say some observable movement
5 towards adaptive management in maybe five
6 years and by that I don't mean adaptive
7 management being applied everywhere."

8 And I have a couple of specific questions about that,
9 and if I have taken things out of context, make sure
10 you let me know. But I wanted to know, when you said
11 that:

12 "...I would some observable movement
13 towards adaptive management maybe in five
14 years..."

15 What do you mean when you say observable movement?

16 DR. McNAMEE: A. I would define that as
17 perhaps a resource -- excuse me, a quantitative
18 resource management model would be in a form that could
19 be used province-wide and one of the resource
20 management planning areas, timber management planning
21 area or an area of that sort would have been managed
22 using the adaptive management approach for that period
23 of time.

24 Q. Sorry, that it would be -- that for
25 each management unit, for a management unit the

1 adaptive management approach, and I didn't...

2 A. That a resource management agency
3 would have used the adaptive management approach in one
4 of their areas, one of their management areas--

5 Q. Okay.

6 A. --to do two things: One, to
7 essentially find out how well the adaptive management
8 approach would actually work and, in a sense, also to
9 show that it is an approach to resource management
10 that is worth doing over a larger area.

11 Q. All right. And is it the -- your
12 reference to doing this on one management unit, is that
13 what you meant by saying: Well, I don't mean adaptive
14 management being applied everywhere?

15 A. Yes. And the reason for that is
16 because, like any other process or approach, a new way
17 of doing business cannot be imposed on a large agency
18 or a large group over a short period of time.

19 Q. Okay. Now, one of the things that
20 you did -- the first thing you mentioned when I asked
21 you about what you meant by movement towards adaptive
22 management may be five years, you referred to the
23 development of a model -- of a predictive model.

24 I am just wondering, were you referring
25 to commencing work towards building one, or were you

1 saying that you would complete one of these models
2 within a five-year period?

3 A. If one would start at the start of
4 that five-year period, I would expect that the tool or
5 the model would be in a form that could be used at the
6 end of that five-year period. I mean, that's my
7 estimate of the amount of time it would take.

8 THE CHAIRMAN: Well, how does that
9 compare with the one in the northwestern U.S. which is
10 just one resource?

11 DR. McNAMEE: Their elapsed time was
12 about -- I am not sure of the exact time, but it was
13 about six to eight years.

14 THE CHAIRMAN: For one resource?

15 DR. McNAMEE: Yes.

16 THE CHAIRMAN: And you said elsewhere
17 that this would take a bit longer for more than one
18 resource?

19 DR. McNAMEE: Yes. I think that there
20 would be more effort involved in developing a tool or
21 model of that sort, but I think it could be done in a
22 five-year period of time very easily.

23 MR. FREIDIN: Q. Dr. McNamee, can you
24 tell me how would this model development relate to the
25 monitoring program which you indicated would take eight

1 to ten years?

2 DR. McNAMEE: A. Presumably -- well, the
3 results of the effects monitoring program I believe
4 could be used to improve a model of that sort.

5 Q. Thank you.

6 THE CHAIRMAN: So does that mean that you
7 would not start building a model until after you had
8 your monitoring effects?

9 DR. McNAMEE: No, no, no. No, I believe
10 that the time to start is now.

11 THE CHAIRMAN: And if you found out at
12 the end of five years -- well, you would have your
13 model in five years and then at the end of eight to ten
14 years you found out that some of the actual impacts
15 were different because of your effects monitoring you
16 would then what, adjust the model?

17 DR. McNAMEE: You would have to, yes.
18 That's why the effects monitoring -- that's the reason
19 for the effects monitoring program being done, because
20 even now we aren't sure.

21 THE CHAIRMAN: Do you have a ballpark on
22 building a model, cost-wise?

23 DR. McNAMEE: Not right now.

24 THE CHAIRMAN: All right.

25 MR. FREIDIN: Q. I have a question I

1 think along the same lines. When you just gave that
2 evidence about, you know, preparing this model and it
3 can be done in five years, were you giving that
4 evidence as a scientist or were you giving that
5 evidence as a resource management administrator?

6 DR. McNAMEE: A. I believe the answer is
7 obvious, as a scientist.

8 Q. Thank you. Dr. McNamee, can you have
9 a guideline approach to protecting non-timber values
10 and still practice adaptive management if you decided
11 that's what you wanted to do?

12 A. I would have to say yes.

13 Q. How?

14 A. Well, my notion and idea of what
15 adaptive management is, is that you, through some
16 means, predict what the effects of your management
17 actions are going to be.

18 You take those actions, then you look
19 at -- you also, once you take those actions, look at
20 whether or not the actions you take are having the
21 effect that you thought that they would have and if
22 they are -- and also, at the same time, understand why
23 the actions are having the effect that you thought they
24 would have, or why they are not.

25 Then, based on that increased

1 understanding, the next time you have to decide what
2 set of management actions you have to take, you have a
3 greater understanding. That's my view of what adaptive
4 management is.

5 Q. Okay. Now, you were referred to the
6 work of Dr. Holling, his textbook?

7 A. Yes.

8 Q. In relation to this concept of
9 adaptive management that you stated the following:

10 "It is important to keep in mind that
11 there have been a number of attempts of
12 resource agencies and groups to use the
13 adaptive management approach and there
14 are a number of instances where that has
15 worked quite well, and those where it
16 didn't work that well. It is not very
17 easy to implement an approach of that
18 extent."

19 A. Yes, of that sort, yes.

20 Q. All right. Why not?

21 A. I think the problems are largely
22 institutional ones, that it has been our experience
23 that institutions change at a very slow rate and you
24 just can't impose a scheme of that sort over a very
25 short period of time. It is just large agencies and so

1 on change at a very slow pace.

2 Q. Okay.

3 A. It also means that a whole idea --
4 well, one of the themes behind adaptive management is
5 that you have to live with the fact that you cannot
6 predict everything, you do not understand everything,
7 and you will have to live with the chance that you
8 might make mistakes and errors.

9 And it has been my sense that a lot of
10 the agencies and so on that we work with don't like to
11 think that way, they find that those kinds of ideas
12 make them somewhat uneasy.

13 Q. Now, I want to engage in a little
14 process here, following along from those questions,
15 which I will describe as dictionary-building as opposed
16 to model-building.

17 Could you refer to page 365 of the
18 witness statement. We are getting to the end of the
19 document, I hope to get to the end of this
20 re-examination as well. 365 there is the heading:
21 Forecast Habitat Availability?

22 A. Yes.

23 Q. On the right-hand side?

24 A. Yes.

25 Q. Now, there is reference in there in

1 the second sentence to forest habitat supply analysis?

2 A. Yes.

3 Q. Do you know what that is?

4 A. I take that to mean a description of
5 the amounts and -- yes, the amounts of different types
6 of habitat and how those amounts of those different
7 types changes over both time and space.

8 Q. Okay. And can you tell me whether
9 such an analysis is a management tool or is it an
10 objective of management?

11 A. It is both.

12 Q. Could you explain that, please?

13 A. It may be an objective in the sense
14 that a resource manager may want to know how much
15 habitat of the various types -- no, I am sorry -- may
16 want to say: I want to ensure that there will be a
17 certain amount of each of these habitat types for the
18 next ten years or whatever in this area.

19 Okay, he said that, that is what I want
20 to have. It can also mean a tool or a model of some
21 sort that a manager might use to look at how the
22 amounts of the different habitat types may change over
23 time and space as a result of various management
24 actions.

25 Q. Okay. Now, in the first part of that

1 answer you described a habitat management objective.

2 A. Yes.

3 Q. And in the latter part you referred
4 to using the analysis as a management tool.

5 A. Yes.

6 Q. Can you advise whether, in your view,
7 timber management guidelines -- the timber management
8 guidelines regarding fish, moose and tourism --

9 MR. FREIDIN: Can I have just one moment,
10 Mr. Chairman.

11 THE CHAIRMAN: We are going to take a
12 break shortly. Would this be a good time?

13 MR. FREIDIN: Excellent.

14 THE CHAIRMAN: 15 minutes.

15 ---Recess taken at 3:20 p.m.

16 ---Upon resuming at 3:40 p.m.

17 THE CHAIRMAN: Thank you. Into the home
18 stretch?

19 MR. FREIDIN: Yes, sir.

20 Q. Let's continue this little game that
21 you might think I am playing. Dr. McNamee, can you
22 tell me: Is there a difference between computer
23 modeling and adaptive management?

24 DR. MCNAMEE: A. Very much so.

25 Q. Could you explain the difference?

1 A. Simply having a quantitative tool
2 such as a computer model does not automatically mean
3 that you are going to practice adaptive management and
4 a computer model might be used as one of the tools that
5 might be used if one were doing adaptive management.
6 They aren't one in the same thing.

7 Q. And can you just explain why having a
8 computer model is not the same thing as adaptive
9 management?

10 A. Because the essential part of what I
11 understand adaptive management to be is that once you
12 take -- once you put those -- excuse me, once you
13 undertook to do those management actions, you also
14 employ a process or a scheme by which you both find out
15 whether your management actions are having the effects
16 you thought they would have and, if so, why; and, if
17 not, why not. That is the key.

18 MRS. KOVEN: Dr. McNamee, you could also
19 practice adaptive management perfectly well without any
20 computer modeling?

21 DR. McNAMEE: Yes.

22 MRS. KOVEN: Are you an expert in
23 adaptive management or have you just had the misfortune
24 of being the target of questions about adaptive
25 management?

1 DR. McNAMEE: I was assumed with Dr.
2 Holling when this book was being written and I had
3 exposure to these ideas and so on back then. And our
4 firm, I think it is safe to say, a large proportion of
5 the work it does involves certain -- involves doing
6 certain parts of adaptive management.

7 MR. FREIDIN: Q. And, Dr. McNamee, then
8 is trying to determine if your predictions are right,
9 is that part of determining whether your computer
10 model, if you have one, needs improvement or change?

11 DR. McNAMEE: A. Yes.

12 Q. Could you advise me whether, in your
13 view, there is a difference between habitat supply
14 analysis and adaptive management?

15 A. There is and I would say that the
16 difference between those two are the same difference as
17 I described between adaptive management and modeling.

18 Q. And in habitat supply analysis, can
19 you use a computer?

20 A. Yes you can.

21 Q. Do you have to use a computer?

22 A. You should, but you don't have to.

23 Q. Okay. Let me give you a
24 hypothetical, Dr. McNamee. If you wanted to manage for
25 timber and timber only, you sort of - these words don't

1 come easily out of my mouth - and you didn't care about
2 any non-timber values--

3 A. Shame, shame.

4 Q. --in any way, could you actually do
5 that; that is, manage for timber only and still do that
6 and practice adaptive management?

7 A. If you were not concerned about any
8 of the other resource values out there.

9 Q. Yes.

10 A. If you didn't take any of those other
11 resource values into account at all, sure.

12 Q. Okay. And so if we then wanted to
13 manage for timber - another hypothetical - and another
14 natural resource, let's pick moose, and you said you
15 don't care about any of those other values out there --

16 THE CHAIRMAN: Take a deep breath it is
17 easier.

18 DR. McNAMEE: Yes, you could.

19 MR. FREIDIN: Q. --you could in fact
20 ignore those other values, manage for those two
21 resources and still practice adaptive management?

22 DR. McNAMEE: A. It is all a matter --

23 Q. Right?

24 A. Yes. It is all a matter of defining
25 which resources you are interested in.

1 Q. Okay.

2 A. That is the key.

3 Q. All right. Can you advise me, Dr.

4 McNamee, are adaptive management and integrated

5 resource management--

6 A. No.

7 Q. --the same thing?

8 A. No.

9 Q. Sorry to have put you through that,

10 Dr. McNamee, but it was fun.

11 Mr. Scott, during cross-examination of

12 Dr. McNamee Mr. Armstrong was asking some questions

13 about plans perhaps speaking to both the number of

14 moose that you wanted and the amount of timber that you

15 wanted.

16 Do you remember that sort of general line

17 of questioning?

18 MR. SCOTT: A. Very generally, yes.

19 Q. Okay. Now --

20 THE CHAIRMAN: Good answer.

21 MR. FREIDIN: Q. At one stage, Mr.

22 Armstrong says:

23 "It would be difficult for Mr. Scott..."

24 He says to Dr. McNamee:

25 "...to take out some wood and just

1 provide a number of moose."

2 He said:

3 "Wouldn't it be better if he was told the
4 amount of wood to harvest and the number
5 of moose to produce."

6 And Dr. McNamee said:

7 "I don't want to estimate Mr. Scott's
8 skills regarding that situation."

9 And I have got a couple of questions for you. Are
10 there representatives of the fish and wildlife program
11 on timber management planning teams?

12 MR. SCOTT: A. Yes.

13 Q. Now, if - okay, let's assume - if
14 they have objectives and targets, all right, those fish
15 and wildlife people, if they have objectives and
16 targets and they just aren't reproduced in the timber
17 management plan itself, do those representatives forget
18 about those objectives and targets when they show up to
19 participate on a timber management planning team?

20 A. I believe the contrary to be true. I
21 think that is why they are on the team, to represent
22 those other uses and those targets.

23 Q. Okay. And, Mr. Straight, are there
24 wildlife managers and fisheries managers or will there
25 be wildlife managers and fisheries managers as

1 witnesses on panels which are upcoming?

2 MR. STRAIGHT: A. Yes, there will.

3 Q. And if their programs have objectives
4 and targets, do you believe that they will be able to
5 confirm their existence and advise whether they are
6 quantifiable or not?

7 A. Yes.

8 Q. Thank you. Dr. McNamee, in your
9 evidence you indicated that the monitoring program
10 could take eight to ten years.

11 DR. McNAMEE: A. Yes.

12 Q. And could you advise me: Does this
13 preclude the guidelines for moose, fish and tourism
14 being improved or changed based on knowledge gained
15 through the monitoring program before the monitoring
16 program is complete?

17 A. No, and I would hope that if
18 understanding comes from the effects -- if an improved
19 understanding comes from the early results of the
20 effects monitoring program or from elsewhere that the
21 guidelines be improved at that point.

22 Q. And can you tell me, Dr. McNamee, is
23 that a possibility -- or is that possibility or that
24 opportunity to do that, part of the design of the
25 monitoring program that was recommended by ESSA?

1 A. I can't recall for sure the more
2 detailed design of the effects monitoring program as
3 will be talked about in 16, but what I can remember of
4 it is that, yes, it is.

5 Q. Did you indicate in your report
6 whether in fact there should be some sort of a regular
7 sort of review or updating of the progress of the
8 monitoring by the participants?

9 A. Yes, once a year I believe.

10 Q. And do we find that referred to in
11 your report?

12 A. I think so, on the last page.

13 Q. Try the second last to the last page.

14 A. Page 224, Section 4.4 I believe talks
15 about that.

16 Q. That is page 224 and 225 of Exhibit
17 381 which is your March, '88 Report?

18 A. Yes.

19 Q. And can you just perhaps indicate
20 where we find the reference to what you are speaking
21 about?

22 A. Top of page 225:

23 "It is essential that a process be
24 implemented that can both review newly
25 completed research and redesign future or

1 on-going experiment. We recommend that
2 once the effects monitoring program is
3 underway two meetings a year be conducted
4 with all program participants."

5 And on after that.

6 Q. Right. And in addition to doing the
7 specific things that are referred to following that in
8 that paragraph on page 225, one of the things which
9 could also result or which was contemplated is
10 improvement or changes to the guidelines where the
11 results indicate that is a good thing to do.

12 A. Yes.

13 Q. Thank you. Now, Mr. Scott, I would
14 like to ask you a few questions about playing checkers
15 and Mr. Armstrong asked you to consider givens.

16 He said, you know, when you start making
17 a decision there are certain givens and he said:

18 "Would you consider givens, when you do
19 that..."

20 Pardon me, he asked you to consider givens which may
21 affect decision-making during a timber management plan
22 by using the analogy of a game of checkers. And I am
23 sure you remember that?

24 MR. SCOTT: A. Yes, I recall that.

25 Q. Now, you testified that if the number

1 of pieces or the number of squares on the board
2 increased, your decisions would be similar but would be
3 made on a different scope. Do you remember giving that
4 answer?

5 A. Yes, I do.

6 Q. Now, in checkers, Mr. Scott - and I
7 am not really up on checkers, whatever the number of
8 squares that you have on the board - would you agree
9 that during the game the squares would not move and
10 that rather they would remain static?

11 A. Yes, I do.

12 Q. Now, if the board with the squares on
13 it represented the management unit and all those
14 squares were different stands, okay, and the checkers
15 represented all of the values -- timber values and all
16 the non-timber values which existed on the management
17 unit, would the squares and the checkers remain static?

18 A. No, they would not.

19 Q. They'd be dynamic?

20 A. Yes, they would.

21 Q. And can you tell me: Would that make
22 the game more difficult to play?

23 A. I would presume, so, yes.

24 MR. FREIDIN: Thank you. Those are my
25 questions, Mr. Chairman.

1 THE CHAIRMAN: What if you were playing
2 Chinese checkers?

3 MR. STRAIGHT: They roll, do they not?

4 THE CHAIRMAN: Thank you, Mr. Freidin.

5 Well, we are at four o'clock and I take
6 it we are through with this panel completely?

7 MR. FREIDIN: I hope so.

8 --- (Panel withdraws)

9 THE CHAIRMAN: What did you intend to do
10 at this point, start Panel 9 tomorrow?

11 MR. FREIDIN: Yes, and if that is
12 agreeable, I should perhaps advise the Board that we
13 still have the problem on Monday that Mr. Armson is not
14 available on Monday.

15 THE CHAIRMAN: Okay. Well, the way the
16 timetable looks that we have been discussing - we might
17 as well take this time now - is we would start Panel 9
18 direct evidence tomorrow morning, we would start at
19 nine o'clock and go through till five, and start
20 Thursday as well early and go through to our usual
21 time, 1:30 or so on Thursday.

22 Now, you indicated you might be a day and
23 a half to two days in direct; is that correct?

24 MR. FREIDIN: That's correct, Mr.
25 Chairman.

1 THE CHAIRMAN: So we would probably
2 finish direct evidence by the end of Thursday?

3 MR. FREIDIN: I would anticipate that to
4 be the case.

5 THE CHAIRMAN: And then we would commence
6 cross-examination on Tuesday of next week, except we
7 would start at 9:00 a.m., and we are suggesting to the
8 parties that they arrive Monday night into Thunder Bay
9 so we can start early, and I understand that Mr. Armson
10 will be coming in Monday night as well?

11 MR. FREIDIN: I think somebody was
12 checking and if they have advised Mr. Mander, okay,
13 that's right.

14 THE CHAIRMAN: All right. Mr. Mander
15 advises us that he is coming in Monday night. So we
16 could start early Tuesday morning and get two days of
17 cross-examination in, Tuesday and Wednesday, and then
18 we are on our site visit for Thursday and back to
19 Toronto on Friday.

20 We would then continue, again Tuesday
21 morning at 9:00 a.m. of the following week with
22 cross-examination and go from there.

23 And I don't know how long
24 cross-examination is going to take, but I understand,
25 Mr. Hanna, that your group will not be cross-examining

1 or very limited cross-examination on this panel.

2 MR. HANNA: I would suggest to the Board
3 that at this time I would not expect the
4 cross-examination to be any more than three hours, half
5 a day. Half a day at most.

6 THE CHAIRMAN: Okay. How about you, Ms.
7 Seaborn, do you have any idea?

8 MS. SEABORN: Probably half a day.

9 THE CHAIRMAN: All right. And Forests
10 for Tomorrow, we don't...

11 MR. LINDGREN: That is me, Mr. Chairman.
12 I am here on Ms. Swenarchuk's behalf and I think she
13 anticipates being less than a full day.

14 THE CHAIRMAN: Less than a full day. And
15 how about for Mr. Cosman?

16 MR. SHIBINICHI: Mr. Chairman, I can't
17 advise on that right now until tomorrow morning.

18 THE CHAIRMAN: Okay. Well, in any event,
19 there is a chance we could finish the cross-examination
20 the following week, based on what the parties are
21 indicating at this point.

22 I don't know whether either of the
23 counsel for the native groups will be in attendance for
24 this panel or not.

25 MR. FREIDIN: Well, according to the

1 scoping session they did indicate that they were going
2 to do some cross-examination on a number of the subject
3 matters.

4 THE CHAIRMAN: All right. Okay. Well,
5 we will just proceed with the cross-examination until
6 we finish it.

7 MR. FREIDIN: Okay. And one other
8 matter. I would just remind the parties to have with
9 them for Panel No. 9 the answer to the undertaking in
10 relation to clearcuts and the documentation which was
11 provided and also to bring their Panel 10 materials as
12 well.

13 THE CHAIRMAN: All of the Panel 10
14 materials?

15 MR. FREIDIN: Yes. They will need both
16 volumes because some of the material that has been
17 moved--

18 THE CHAIRMAN: Oh right.

19 MR. FREIDIN: --part of it comes from Dr.
20 Allen's which is in one volume and part of it comes
21 from Mr. Greenwood which is in the other.

22 THE CHAIRMAN: Okay. And do we have the
23 clearcut stuff as well, or are those in Toronto?

24 Was the first part of what you just
25 mentioned, the clearcut documents, was that part of an

1 interrogatory that we would have, or is that yet to be
2 filed?

3 MR. FREIDIN: Well, it was an answer to
4 an undertaking. Ms. Blastorah may know whether it has
5 been provided. I anticipated that it had been provided
6 to the Board because it forms the basis of a lot of the
7 evidence in relation to clearcuts.

8 All right. If you don't have it -- well,
9 we will check with Mr. Mander. If you don't have it,
10 we will get you copies for sure.

11 THE CHAIRMAN: Okay. So we might as well
12 have copies of that in front of us tomorrow as well.
13 If it hasn't admitted, we will admit it at the
14 appropriate time.

15 MR. FREIDIN: What I intend to do, Mr.
16 Chairman - and I ask for some guidance - I intended to
17 lead all of Panel No. 9 and the information on the
18 clearcut undertaking all at once. I wasn't going to
19 break it up, and I would anticipate...

20 THE CHAIRMAN: Cross-examine everything?

21 MR. FREIDIN: Right. And I would
22 anticipate that we won't get to the clearcut material
23 tomorrow. If we do, it will be late in the day, in any
24 event.

25 MS. SEABORN: Mr. Chairman, just before

1 we break, with respect to the undertaking, perhaps --
2 we have all received some answers to undertakings from
3 Mr. Freidin in the last couple of weeks and I am
4 wondering if at some point Mr. Freidin is going to
5 formally file those answers to undertakings just so the
6 record is clear, because outstanding undertakings
7 remain on the record, however they have been satisfied
8 as far as many of the parties are concerned.

9 MR. FREIDIN: I intend to do that.

10 THE CHAIRMAN: Well, I thought we
11 established earlier on that we were only going to file
12 that kind of information in the event that the parties
13 were going to address it, sort of the same rules that
14 we were using for interrogatories.

15 MS. SEABORN: I may have missed that, Mr.
16 Chairman, with respect to undertakings. I think I
17 would say that answers to undertakings are in a
18 slightly different category than interrogatories
19 because other parties may be interested in what the
20 answer is.

21 MR. FREIDIN: Mr. Chairman, just if I may
22 respond. It was my understanding that the undertakings
23 and the interrogatories would be used in the same way
24 that, in fact, they would be given to the party to whom
25 the undertaking was given and either that party or

1 anybody else--

2 THE CHAIRMAN: Could file them.

3 MR. FREIDIN: --who got it or the party
4 who answered it could do it. And in response
5 specifically to what we intend to do with the
6 undertakings in that large bundle that we gave
7 everybody, we do intend to file some of them. I don't
8 believe we are going to file all of them.

9 THE CHAIRMAN: No, that was the Board's
10 understanding. We feel that we shouldn't necessarily
11 be cluttering up the record, as far as the Board is
12 concerned, if the parties, after having an undertaking
13 satisfied, find that they really don't want to use that
14 material either in their own argument or in terms of
15 cross-examination.

16 So it is only when the parties is going
17 to us use it - and the same for answers to
18 interrogatories - that we feel it should be filed with
19 the Board.

20 MS. SEABORN: That's fine. Thank you,
21 Mr. Chairman. I wasn't clear on the procedure
22 regarding undertakings.

23 MR. FREIDIN: I have no other
24 submissions, Mr. Chairman.

25 THE CHAIRMAN: Okay. We will adjourn

1 until 9:00 a.m. tomorrow morning.

2 Thank you.

3 ---Whereupon the hearing adjourned at 4:00 p.m.,
4 to be reconvened on Wednesday, February 15th, 1989,
5 commencing at 9:00 a.m.

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